

No. 15076

United States
Court of Appeals
for the Ninth Circuit

RANDALL FOUNDATION, INC.,

Appellant,

vs.

ROBERT A. RIDDELL, Director of Internal Revenue,
District of Los Angeles,

Appellee.

Transcript of Record

Appeal from the United States District Court for the
Southern District of California,
Central Division.

FILED

MAY 24 1956

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS

Attorneys for Appellant:

GIBSON, DUNN & CRUTCHER,
634 South Spring Street,
Los Angeles 14, California.

Attorneys for Appellee:

CHARLES K. RICE,
Asst. U. S. Attorney General;

LEE A. JACKSON,
Attorney, Dept. of Justice,
Washington 25, D. C.;

LAUGHLIN E. WATERS,
U. S. Attorney;

EDWARD R. McHALE,
Asst. U. S. Attorney,
Chief, Tax Division;

ROBERT H. WYSHAK,
Asst. U. S. Attorney,
600 Federal Building,
Los Angeles 12, California.

In the United States District Court, Southern
District of California, Central Division

No. 16142-PH

RANDALL FOUNDATION, INC.,

Plaintiff,

vs.

ROBERT A. RIDDELL, Director of Internal Revenue,
District of Los Angeles,

Defendant.

COMPLAINT

(To Recover Overpayment of Federal Income Tax)

Comes now the plaintiff, Randall Foundation, Inc., and for its cause of action herein alleges:

I.

Plaintiff is, and at all times herein mentioned has been, a California non-profit corporation, with its principal place of business in Los Angeles County, California. It was formed on or about May 11, 1950. A true and correct copy of its Articles of Incorporation filed with the California Secretary of State at the time of its organization is attached hereto as Exhibit "A." A true and correct copy of a Certificate of Amendment to said Articles filed with the California Secretary of State on October 9, 1952, is attached hereto as Exhibit "B." There have been no other amendments to its Articles of Incorporation, and the Articles as thus amended are presently in effect. [2*]

*Page numbering appearing at foot of page of original Certified Transcript of Record.

II.

Defendant, Robert A. Riddell, is and at all times since December 26, 1952, has been the Director of Internal Revenue for the District of Los Angeles, California.

III.

Plaintiff adopted a fiscal year ended April 30th, and shortly after the close of its first fiscal year ended April 30, 1951, it filed with the Internal Revenue Service an application for exemption from Federal income tax under Section 101(6) of the Internal Revenue Code. Said application was rejected by the said Service on September 12, 1951. Thereafter, plaintiff through its various tax advisers attempted to convince the Service that it was entitled to such tax exemption. Initially, plaintiff was represented by Sidney R. Reed & Co. of Los Angeles. In August, 1952, plaintiff retained the law firm of Barnes and Hill of Washington, D. C., to assist it in these attempts. Plaintiff's efforts were of no avail, and the Service later denied plaintiff's application for exemption under Section 101(6) for its fiscal year ended April 30, 1952. In May, 1953, plaintiff employed the Los Angeles law firm of Gibson, Dunn & Crutcher to assist in its efforts to obtain exemption from Federal income taxes. At that time, plaintiff was faced with a demand of the Director of Internal Revenue of Los Angeles to file corporate income tax returns for its fiscal years ending April 30, 1951, and April 30, 1952, and upon advice of said law firm, plaintiff filed with said Director on June 10, 1953, income tax returns for said year computing

a tax due for the year ended April 30, 1951, of \$6,677.13, and for the year ended April 30, 1952, of \$14,113.24. The amounts of tax shown due per said returns were paid to said Director on or about June 10, 1953.

IV.

On July 2, 1953, the Director of Internal Revenue at Los Angeles demanded payment of additional tax for the year ended April 30, 1951, in the amount of \$14.32, plus penalty for unreasonable delay [3] in filing said return of \$1,672.86, plus interest of \$497.05. Plaintiff paid these sums on August 18, 1953. Under date of July 2, 1953, the Director of Internal Revenue at Los Angeles demanded payment of additional tax for the year ended April 30, 1952, in the amount of \$26.28, plus penalty for unreasonable delay in filing said return of \$3,534.88, plus interest of \$767.35. Plaintiff paid these sums on August 18, 1953.

V.

Under date of June 12, 1953, plaintiff filed with the Director of Internal Revenue at Los Angeles a claim for refund of tax originally paid for its fiscal year ended April 30, 1951, a true and correct photostatic copy of which (exclusive of four pages thereof appearing thereon under the heading "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.," which pages are pleaded hereinafter in haec verba) is attached hereto and marked Exhibit "C."

VI.

Under date of June 12, 1953, plaintiff filed with defendant a claim for refund of the tax paid pursu-

ant to its return for the year ended April 30, 1952, a true and correct photostatic copy of which (exclusive of four pages thereof appearing under the heading "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.," and exclusive of five pages thereof appearing under the heading "Memorandum in Support of Taxpayer's Position" which is identical with the statement under said heading appearing as a part of Exhibit "C" herein) is attached hereto and marked Exhibit "D."

VII.

The claims for refund referred to in paragraphs V and VI above contained the following identical statements appearing under the heading "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.":

"1. Randall Foundation, Inc., was formed under the non-profit provisions of the California corporation law on May 11, [4] 1950. Its Articles provided that the purpose for which it was formed was to 'aid, assist, contribute to and/or establish charitable, religious and educational institutions, organizations and foundations.' Said Articles also provided that no member should have any interest in the assets of the Foundation nor receive any income or benefit or advantage therefrom, but that, upon any dissolution or winding-up, any assets remaining after payment of debts should be distributed to a religious, educational or charitable organization located in California and selected by the Board of Trustees.

“2. Under date of October 9, 1952, the Articles were amended to provide specifically that ‘the specific and primary purpose for which said corporation is formed is to establish a home for underprivileged boys, without regard to race, creed or color. It shall be the purpose of this home to prevent and cure waywardness among boys by providing a wholesome home with facilities for education and the teaching of useful trades or occupations.’ Furthermore, the Bylaws were then amended to provide that, if the construction of such a boys’ home were not commenced by December 31, 1957, or if facilities for actual residence of at least fifty boys were not established by December 31, 1959, the Trustees must consider appropriate resolutions for the dissolution of the Foundation and the distribution of its assets to an exempt religious, educational or charitable organization. Said Articles and Bylaws have not since been amended.

“3. The income, expenses and gains from disposition and sale of securities of the Foundation for the three years of its existence have been as follows:

	Year Ended		
	4/30/51	4/30/52	4/30/53
“Dividends and interest	\$10,285.00	\$ 7,081.93	\$ 2,937.67
“Expenses	1,532.36	8,271.99	5,966.03
“Gains from disposition and sale of securities	30,238.27	51,079.61	5,456.01

“The increase in expenses during the second and third years were largely due to accountants’ and legal fees in attempting to secure a ruling as to its tax-free character.

“4. Upon the organization of the Foundation, Paul M. Randall became its president, and the Board of Trustees gave him broad authority over the investment of its assets. Shortly after organization, Mr. Randall contributed to the Foundation the sum of \$20,750.11. Thereafter, feeling that he saw investment opportunities which would swell the Foundation’s funds, he loaned it considerable funds, the total of said loans during the first year of its existence amounting to \$155,200.00. He charged said Foundation $2\frac{1}{2}\%$ interest on these loans which was the identical interest he was required to pay to borrow the money so loaned to the Foundation. He never made any profit whatsoever on this interest or received any other funds directly or indirectly from the Foundation or its assets.

“5. With the donated and borrowed funds, the Foundation purchased certain investments which were continually supervised and managed by Mr. Randall. Each time he felt there was an opportunity for a profitable transaction, he would cause the Foundation to buy or sell as the case might be. As a result of these transactions, the Foundation’s net profit from purchase and sale of assets during the first year of its operation ending April 30, 1951, totaled \$30,238.27. None of these transactions was with any ‘customer’ of Mr. Randall (he was not a broker or dealer in securities) or the Foundation, all of them being made through brokers who purchased or sold for the Foundation either on a listed exchange or an over-the-counter market.

“6. The purpose in forming this non-profit corporation was to create an entity to accomplish various charitable purposes that [6] its organizer, Paul M. Randall, had in mind. The foremost of these was the establishment of a home for underprivileged boys, but upon advice of counsel, the purposes of said Foundation were not so restricted, said purposes embracing any non-profit charitable, religious or educational purpose. Shortly prior to the close of the first year of the Foundation’s operation, Mr. Randall had determined definitely that he desired that the funds of the Foundation be dedicated to the eventual establishment of the aforesaid home for underprivileged boys. However, upon advice of tax counsel for the Foundation, Sidney R. Reed & Co., and after discussing this point with them:

“(a) The Foundation contributed to the Children’s Hospital Society of Los Angeles \$500.00 (out of net profit from operations exclusive of gains from sales of investments of \$8,752.64) rather than accumulating it for the establishment of said home because it was felt that some substantial contribution to charity should be made to establish the bona fide character of the Foundation as a charitable organization.

“(b) In filing the request for exemption under Section 101(6) of the Internal Revenue Code on Form 1023, the charitable purposes of the organization were stated in the general terms then contained in its Articles and Bylaws rather than in the specific terms relating to said Boys’ home.

“7. The Minutes of the Board of Trustees’ meeting held on May 15, 1951, went part way in recognizing formally the specific charitable intention of Mr. Randall, said Minutes containing the following resolution:

“ ‘That the plan of establishing or selecting some one worthy cause and institution be followed up at this time in view of the earnings of the corporation, in order that a substantial part of the funds of this corporation may be given and invested in a cause in which Mr. Randall of this [7] Foundation and the Foundation of itself may play an important part in the establishment or growth or development thereof.’

“8. In response to the aforesaid application for exemption, the Commissioner of Internal Revenue in Washington ruled on September 12, 1951, that the Foundation was not entitled to an exemption because:

“(a) It had been primarily engaged in the ordinary business of buying and selling securities, it having engaged in 110 different transactions involving the sale or purchase of stock during its first year of operation; and

“(b) The income of the Foundation had not been devoted to the purposes specified in its charter.

“9. During the second fiscal year of the Foundation ending April 30, 1952, it operated in a manner similar to its operations in the first year, with the following exceptions:

“(a) Because of the denial of exemption, Mr. Randall did not feel he was in a position to make substantial contributions to the Foundation, and, therefore, the contributions for the second year amounted to only a few hundred dollars;

“(b) Because of the negative reference to his loans to the Foundation contained in the Commissioner’s letter of September 12, 1951, the Foundation repaid prior to the close of its second fiscal year these loans in their entirety;

“(c) The charitable contributions by the Foundation were increased to \$11,200.00 (although there was a net loss from operations, exclusive of profits on sale of investments, of \$1,190.06), said contributions being made to the following qualified charities:

“Sister Elizabeth Kenny Foundation	\$ 100.00
“St. John’s Hospital	1,000.00
“Montecito School for Girls	2,500.00
“David Seabury School of Psye	2,000.00
“Bureau of Welfare-Calif. Teachers Assn.	1,000.00
“American Red Cross	1,000.00
“Y.M.C.A. of South Pasadena	1,000.00
“All Nations Foundation	1,000.00
“Children’s Hospital of Los Angeles	500.00
“Girl Scouts of South Pasadena	100.00
“Cate School	1,000.00
<hr/>	
“Total	\$11,200.00

“10. Subsequent to the first rejection of its claim for exemption under Section 101(6), the Foundation filed several requests for reconsideration, involving both the facts prior to the amendment of the Articles and Bylaws set forth above and the facts subsequent to said amendment. In rulings dated January 15, 1952, June 16, 1952, and January 8, 1953, the Bureau adhered to its original ruling, and in each instance, concluded that the Foundation was not exempt, the latest ruling placing the denial on the ground that the activities of the Foundation had been ‘primarily those of an organization engaged in the ordinary business of buying and selling securities.’

“11. As a result of the Bureau’s ruling on January 8, 1953, the Director of Internal Revenue at Los Angeles under date of February 26, 1953, requested that income tax returns for prior years be filed and the tax paid. In response to said request, a return for the year in question was filed on June 10, 1953, and the tax computed thereon paid.

“12. It is submitted that the taxpayer was exempt from income tax under Section 101(6) of the I.R.C. for the year in question. A memorandum of points and authorities attached hereto supports this position.” [9]

VIII.

All statements contained in the aforesaid claims for refund and set forth in their entirety in Paragraph VII hereof are true and correct.

IX.

Plaintiff was formed and has been operated continuously in good faith exclusively for the charitable purposes set forth in its Articles of Incorporation and the amendment thereto referred to in Paragraph I hereof. Neither Paul M. Randall nor any other Trustee or private person or entity has ever obtained or intended to obtain any profit or advantage directly or indirectly from plaintiff or its operation. There are attached hereto as Exhibits "E" and "F," respectively, schedules containing all sales of securities or property by plaintiff during its fiscal years ended April 30, 1951, and April 30, 1952, respectively. Plaintiff was interested in obtaining as much increment on its funds as possible in order to hasten the day when it could commence its primary charitable objective of providing a home for underprivileged boys. The transactions reflected in Exhibits "E" and "F" hereto were entered into because plaintiff, relying on the judgment of its founder Paul M. Randall, believed that said transactions were for the best interests of plaintiff in that it would result in an increment in its investment portfolio. In certain instances, the frequency of sales was due to the thinness of the market of the particular security involved which necessitated several independent purchases or sales to attain the position which plaintiff felt it should have with respect to that particular security. Neither Paul M. Randall nor any other Trustee of plaintiff or private individual or entity obtained any advantage directly or indirectly from the transactions reflected on said

Exhibits "E" and "F," except that the brokerage houses which handled them were paid their normal commissions.

X.

After the Internal Revenue Service first rejected plaintiff's [10] claim for exemption on September 12, 1951, plaintiff was advised by its Los Angeles tax advisers that it was entitled to said exemption and that attempts should be made to secure a reversal of the adverse ruling of the Commissioner of Internal Revenue. Said attempts were continuously made both by correspondence and one conference in Washington from September 12, 1951, through January 8, 1953, when the latest ruling of the Commissioner reiterating the original ruling with respect to the years ended April 30, 1951, and April 30, 1952, was issued. After receiving the January 8, 1953, letter, plaintiff asked advice as to its appropriate action both from its Washington tax counsel and its tax advisers in Los Angeles. Plaintiff was advised not to proceed until the matter had been studied and further advice given. Such advice was received from its Los Angeles tax advisers on March 3, 1953, but not from its Washington counsel until May 22, 1953, and the advice was conflicting. Thereupon, plaintiff decided to employ additional counsel in Los Angeles, said counsel being employed on or about May 25, 1953. The latter counsel advised that returns should be filed, and returns for the fiscal years ended April 30, 1951, and April 30, 1952, were promptly prepared thereafter and filed on June 10, 1953. Plaintiff's

delay in filing said returns was due to the aforesaid reasonable cause and not to wilful neglect.

XI.

No action has been taken by the Internal Revenue Service with reference to the claims referred to in Paragraphs V and VI hereinabove, and none of the payments referred to in Paragraph III and IV hereinabove have been refunded or credited to the plaintiff.

XII.

The payments referred to in Paragraphs III and IV hereinabove were all made to defendant as Director of Internal Revenue for the District of Los Angeles, and defendant still occupies that position.

Wherefore, plaintiff prays judgment against defendant in the amount of \$20,790.37, plus interest as provided by law, and for its [11] costs and disbursements herein, and for such other and further relief as the Court may deem proper.

GIBSON, DUNN &
CRUTCHER,

By /s/ BERT A. LEWIS,
Attorneys for Plaintiff. [12]

EXHIBIT A

Articles of Incorporation of
Randall Foundation, Inc.

Know All Men by These Presents:

That we, the undersigned, a majority of whom are residents of the State of California, do hereby voluntarily associate ourselves together for the purpose of incorporating a non-profit corporation under the laws of the State of California, as set forth in Part I of Division 2 of Title I of the Corporations Code of the State of California, and we do hereby certify that:

I.

The name of said corporation is:

Randall Foundation, Inc.

II.

That the specific and primary purpose for which said corporation is formed is to aid, assist, contribute to and/or establish charitable, religious and educational institutions, organizations and foundations.

III.

That in order to carry out the aforesaid purpose the corporation shall have the power and right to engage in those activities permitted by law to a non-profit corporation organized under the laws of the State of California and under the title aforesaid, and as selected from time to time by the Board of Trustees with a view to creating funds and sources

of revenue for the promotion and advancement of charitable, religious and educational work contemplated by the corporation's primary purpose.

IV.

That the principal office for the transaction of the business of the corporation will be located in the County of Los Angeles, State of California. [13]

V.

That the number of Trustees of said corporation shall be five (5), and the names and residences of the first Trustees, together with the period for which they will serve, is as follows:

Name: Paul Randall.

Period of Service: For Life.

Address: 2050 Fremont Street, South Pasadena, Calif.

Name: Frank R. Randall.

Period of Service: 2 years.

Address: 2050 Fremont Street, South Pasadena, Calif.

Name: Dorothy R. Ward.

Period of Service: 1 year.

Address: 3168 Flower Street, Huntington Park, Calif.

Name: Frederick W. Bailes.

Period of Service: 1 year.

Address: 846 South Sycamore Avenue, Los Angeles, Calif.

Name: James A. Flanagan.

Period of Service: 1 year.

Address: 153 South Camden Drive, Beverly Hills, Calif.

Upon any vacancy occurring on the Board of Trustees for any reason, or upon the termination of the period for which the member serves, the successor Trustee shall be appointed by the founder, Paul Randall, during his lifetime, and thereafter shall be appointed by the remaining Trustees.

VI.

That the Trustees hereunder shall have equal voting power but no individual property rights in or to any assets of the foundation or corporation.

VII.

This corporation is without capital stock, is not organized for profit, and does not contemplate pecuniary gain to the members.

VIII.

No member shall have any proprietary interest whatever in or to any of the assets of the corporation, and no income, increments, or other pecuniary gain, benefit, or advantage of any kind, in any way [14] arising from or growing out of the assets of the corporation or their operation will inure to or in any way go to or vest in any member of the corporation. Upon the dissolution or winding up of the corporation, after paying or adequately providing for the debts and obligations of the corporation,

any remaining assets shall be distributed to a religious, educational or charitable organization located in California and selected by the Board of Trustees.

In Witness Whereof, we, being the original Trustees of said corporation, have hereunto set our hands and seals this 11 day of May, 1950.

/s/ PAUL RANDALL,

/s/ FRANK R. RANDALL,

/s/ DOROTHY R. WARD,

/s/ FREDERICK W. BAILES,

/s/ JAMES A. FLANAGAN. [15]

State of California,
County of Los Angeles—ss.

On this 11 day of May, 1950, before me, Leona J. Moore, a Notary Public in and for said County and State, residing therein, personally appeared Paul Randall, Frank R. Randall, and Dorothy R. Ward, personally known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation, as incorporators, and who are also named therein as Trustees, and acknowledged to me that they executed the said Instrument.

In Witness Whereof, I have hereunto affixed my hand and official seal this 11 day of May, 1950.

[Seal] LEONA J. MOORE,

Notary Public in and for the County of Los Angeles, State of California. [16]

State of California,
County of Los Angeles—ss.

On this 11 day of May, 1950, before me, Leona J. Moore, a Notary Public in and for said County and State, residing therein, personally appeared Frederick W. Bailes and James A. Flanagan, personally known to me to be the persons whose names are subscribed to the foregoing Articles of Incorporation, as incorporators, and who are also named therein as Trustees, and acknowledged to me that they executed the said Instrument.

In Witness Whereof, I have hereunto affixed my hand and official seal this 11 day of May, 1950.

[Seal] LEONA J. MOORE,
Notary Public in and for the County of Los Angeles, State of California. [17]

EXHIBIT B

Certificate of Amendment of Articles of Incorporation of Randall Foundation, Inc.

The undersigned, Paul Randall, Dorothy R. Ward, Frederick W. Bailes and James A. Flanagan do hereby certify:

One: That the signers hereof constitute at least two-thirds of the incorporators of Randall Foundation, Inc., a California corporation; that Randall Foundation, Inc., is a non-profit non-stock corpora-

tion; that the number of incorporators is five; that there are no members of this corporation other than the incorporators thereof.

Two: That they hereby adopt the following amendments of said articles of incorporation:

(a) Article II of said articles is hereby amended to read as follows:

II.

That the specific and primary purpose for which said corporation is formed is to establish a home for underprivileged boys, without regard to race, creed or color. It shall be the purpose of this home to prevent and cure waywardness among boys by providing a wholesome home with facilities for education and the teaching of useful trades or occupations.

(b) Article III of said articles is hereby amended to read as follows: [18]

III.

That in order to carry out the aforesaid purpose the corporation shall have the power and right to engage in those activities permitted by law to a non-profit corporation organized under the laws of the State of California under the title aforesaid and under Section 101(6) of the United States Internal Revenue Code and as selected from time to time by the Board of Trustees with a view to creating funds and sources of revenue for the creation and maintenance of the aforesaid home.

(c) Article VIII of said articles is hereby amended to read as follows:

VIII.

No member shall have any proprietary interest whatever in or to any of the assets of the corporation, and no income, increments, or other pecuniary gain, benefit, or advantage of any kind, in any way arising from or growing out of the assets of the corporation or their operation will inure to or in any way to to or vest in any member of the corporation.

The following article is added to the articles of incorporation and designated as Article IX and is to read as follows:

IX.

Upon the dissolution or winding up of the corporation after paying or adequately providing for the debts and obligations of the corporation, any remaining assets shall be distributed to such religious, educational or charitable organizations as may be selected by the Board of Trustees; however, [19] the Board of Trustees may designate only such organizations as are located in the State of California and which qualify as exempt organizations under the provisions of Section 101(6) of the United States Internal Revenue Code.

In Witness Whereof, the undersigned have executed this certificate this 7th day of October, 1952.

/s/ PAUL RANDALL,

/s/ DOROTHY R. WARD,

/s/ FREDERICK W. BAILES. [20]

State of California,
County of Los Angeles—ss.

Paul Randall, Dorothy R. Ward, Frederick W. Bailes and James A. Flanagan, being first duly sworn, each for himself or herself, deposes and says:

That each is one of the incorporators of Randall Foundation, Inc., the California corporation mentioned in the foregoing certificate of amendment; that each has read said certificate and that the statements therein made are true of his own knowledge, and that the signatures purporting to be the signatures of the incorporators thereto are the genuine signatures of said incorporators.

/s/ PAUL RANDALL,

/s/ DOROTHY R. WARD,

/s/ FREDERICK W. BAILES,

/s/ JAMES A. FLANAGAN.

Subscribed and sworn to before me this 7th day of October, 1952.

[Seal]

LEONA J. MOORE,

Notary Public in and for Said
County and State. [21]

EXHIBIT C

Form 843

U. S. Treasury Department
Internal Revenue Service
(Revised June, 1951)

Claim

To Be Filed With the Collector Where
Assessment Was Made or Tax Paid

The Collector will indicate in the block below the kind of claim filed, and fill in, where required, the certificate on the back of this form.

- Refund of Taxes Illegally, Erroneously, or Excessively Collected.
- Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
- Abatement of Tax Assessed (not applicable to estate, gift, or income taxes).

[Collector's Stamp]: Received 95—June 12, 1953,
Director Int. Rev., Los Angeles, Teller #1.

Notice—Under Reorganization Plan No. 1 of 1952,
all references to Collector of Internal Revenue
and Deputy Collector now relate to Director of
Internal Revenue and Revenue Agent.

Name of taxpayer or purchaser of stamps: Randall
Foundation, Inc.

Street address: 2050 So. Fremont Avenue.

City, postal zone and number, and State: South
Pasadena, California.

1. District in which return (if any) was filed:
Los Angeles, Calif.
2. Period (if for tax reported on annual basis,
prepare separate form for each taxable year) from
5/11, 1950, to 4/30, 1951.
3. Kind of tax: Income tax.
4. Amount of assessment, \$6,677.13; dates of
payment, June 10, 1953.
5. Date stamps were purchased from the Gov-
ernment
6. Amount to be refunded: \$6,677.13, or such
other amount as is legally refundable plus interest
as provided by law.
7. Amount to be abated (not applicable to in-
come, estate, or gift taxes).....\$.....

The claimant believes that this claim should be al-
lowed for the following reasons:

During the period here in question, taxpayer was
a non-profit corporation organized and operated
exclusively for religious, charitable, scientific or ed-
ucational purposes, no part of the net earnings of
which inured or could inure to the benefit of any
private shareholder or individual and no substan-
tial part of the activities of which was carrying on
propaganda or otherwise attempting to influence
legislation. It was, therefore, exempt from Federal
income tax under the provisions of Sec. 101(6) of
the I.R.C., and the above income tax for said year

assessed against it was erroneously assessed and should be refunded.

Without limiting the generality of the foregoing ground for refund, there is attached hereto a statement setting forth in some detail the organization and operation of the taxpayer, the history of its attempts to secure a ruling of exempt status from the Bureau of Internal Revenue, and some of the reasons and authorities supporting taxpayer's position that, contrary to the prior Bureau rulings, during the year here in question it was exempt and is entitled to the claimed refund.

I declare under the penalties of perjury that this claim (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true and correct.

Signed:

RANDALL FOUNDATION,
INC.

By /s/ PAUL M. RANDALL,
President.

Dated: 6/12, 1953. [22]

Memorandum in Support of Taxpayer's Position

The principal basis for the Bureau's action in denying prior requests for exemption was the fact that the Foundation had engaged in many purchases and sales of stocks and securities during each year

which the Bureau felt constituted the carrying out of a trade or business.

It is submitted that such a position is erroneous and that such activity does not properly affect the exempt status of the Foundation:

1. As to the year beginning with organization May 11, 1950, and ending April 30, 1951:

(a) Such activity does not constitute the carrying out of a trade or business. A constant stream of changes of a person's investments for his own account does not constitute engaging in a trade or business, regardless of the number of transactions. *Commissioner v. Burnett*, 118 Fed. (2d) 659 (C.C.A. 5th, 1941). (During the year, there were 584 transactions, both in stocks and commodities on margin.) *Higgins v. Commissioner*, 312 U. S. 212 (1940), where the Government contended that "mere personal investment activities never constitute carrying on a trade or business, no matter how much of one's time or of one's employee's time they may occupy." The Supreme Court, in affirming the Tax Court's holding that the investor was not engaged in trade or business, stated: [23]

"No matter how large the estate or how continuous or extended the work required may be, such facts are not sufficient as a matter of law to permit the Courts to reverse the decision of the Board."

Kane v. Commissioner, 100 Fed. (2d) 382, (C.C.A. 2nd, 1938), where investor was held not to be en-

gaged in trade or business notwithstanding evidence to the effect that he "changed investments continually."

(b) Even if, contrary to the above law, such activity did constitute the carrying out of a trade or business, that fact would not affect the otherwise exempt character of the Foundation:

(i) Since sales were made on the exchange and not to customers, the Foundation was clearly not a "dealer in securities."

Pacific Affiliates, Inc.,
18 T. C. 1175 at 1212 (1952).

George R. Kemon,
16 T. C. 1026 (1951).

Commissioner v. Burnett,
118 Fed. (2d) 659, (C.C.A. 5th 1941).

Such gains, therefore, were not taxable as unrelated business income under Section 422(a) (5) of the I.R.C. Furthermore, since Mr. Randall received no consideration from the Foundation for his services in determining and carrying out its investment policies, including purchases and sales, such income would also not be unrelated business income because of the provisions of Section 422(b) (1). Since for these two independent reasons the income would not be taxable as unrelated business income, Section 302 [24] (a) of the Revenue Act of 1950 applies and precludes the denial of exemption because of any such trade or business.

(c) Under Section 303 of the Revenue Act of 1950, the law with respect to the taxability of feeder organizations as applicable to taxable years beginning prior to December 31, 1950, was specifically not affected by the provisions of the 1950 Act. Under such law, so long as the funds of the organization were dedicated to the requisite charitable purpose, it was immaterial that the organization earned income from the operation of the business:

Roche's Beach, Inc., v. Commissioner,
96 Fed. (2d) 776, (C.C.A. 2nd 1938).

Trinidad v. Sagrada Orden De Predicadores,
263 U. S. 578, (1923).

Willingham v. Home Oil Mill,
181 Fed. (2d) 9, (C.C.A. 5th 1950).

C. F. Mueller Co. v. Commissioner,
190 Fed. (2d) 120, (C.C.A. 3rd 1951).

The Jack Little Foundation v. Jones,
102 F. Supp. 326, (W.D. Okla. 1951).

Sico Company v. United States,
102 F. Supp. 196, (Ct. Clms. 1952).

Even in the Tax Court decisions which have held to the contrary they have stressed the fact that the business involved competed with other businesses which were subject to taxes.

There is obviously no competition with private enterprise in the instant case since the sales were made not to customers but [25] through regular stock exchanges.

2. As to the year ended April 30, 1952:

(a) Such activity does not constitute the carrying out of a trade or business. A constant stream of changes of a person's investments for his own account does not constitute engaging in a trade or business, regardless of the number of transactions. *Commissioner v. Burnett*, 118 Fed. (2d) 659, (C.C.A. 5th, 1941). (During the year, there were 584 transactions, both in stocks and commodities on margin.) *Higgins v. Commissioner*, 312 U. S. 212 (1940), where the Government contended that "mere personal investment activities never constitute carrying on a trade or business, no matter how much of one's time or of one's employee's time they may occupy." The Supreme Court, in affirming the Tax Court's holding that the investor was not engaged in trade or business, stated:

"No matter how large the estate or how continuous or extended the work required may be, such facts are not sufficient as a matter of law to permit the Courts to reverse the decision of the Board."

Kane v. Commissioner, 100 Fed. (2d) 382, (C.C.A. 2nd, 1938), where investor was held not to be engaged in trade or business notwithstanding evidence to the effect that he "changed investments continually."

(b) Even if, contrary to the above law, the investment activity is considered to constitute a trade

or business, it is clear that the Foundation was not organized or operated for the "primary purpose" of carrying on a trade or business as [26] that phrase is used in the second to the last paragraph of Section 101 as added by the 1950 Revenue Act. That phrase was obviously intended to refer to the situations mentioned by the committees in their reports on this addition—automobile businesses, spaghetti factories, and the like, which were either contributed or sold to a non-profit organization. In contrast in the instant case, income producing investments were given to the Foundation and the fact that there were many conversions and reinvestments of said funds can hardly sustain the proposition that the primary purpose of the Foundation was the operation of a trade or business. The founder has always had a specific charitable project in mind and the Foundation is working diligently to secure the necessary funds to accomplish that charitable purpose.

(c) There was no unreasonable accumulation of the Foundation's income within the meaning of Section 3814 for the year in question since its charitable contributions substantially exceeded the excess of its ordinary income over its expenses, and, the proceeds from the sales of its investments were promptly reinvested in other securities held in good faith for the product of investment income. Thus, such profits are eliminated in considering whether an accumulation is unreasonable.

Furthermore, the charitable contributions paid out by the Foundation during the first two years of its existence exceeded the excess of its ordinary income over its expenses for those years. [27]

EXHIBIT D

Form 843

U. S. Treasury Department
Internal Revenue Service
(Revised June, 1951)

Claim

To Be Filed With the Collector Where
Assessment Was Made or Tax Paid

The Collector will indicate in the block below the kind of claim filed, and fill in, where required, the certificate on the back of this form.

- Refund of Taxes Illegally, Erroneously, or Excessively Collected.
- Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
- Abatement of Tax Assessed (not applicable to estate, gift, or income taxes).

[Collector's Stamp]: Received 95—June 12, 1953,
Director Int. Rev., Los Angeles, Teller #1.

Name of taxpayer or purchaser of stamps: Randall
Foundation, Inc.

Street address: 2050 So. Fremont Avenue.

City, postal zone number, and State: South Pasadena, California.

1. District in which return (if any) was filed: Los Angeles, Calif.

2. Period (if for tax reported on annual basis, prepare separate form for each taxable year) from 5/1/51, to 4/30/52.

3. Kind of tax: Income tax.

4. Amount of assessment, \$14,113.24; dates of payment, June 10, 1953.

5. Date stamps were purchased from the Government

6. Amount to be refunded \$14,113.24, or such other amount as is legally refundable plus interest as provided by law.

7. Amount to be abated (not applicable to income, estate, or gift taxes)\$.....

The claimant believes that this claim should be allowed for the following reasons:

During the period here in question, taxpayer was a non-profit corporation organized and operated exclusively for religious, charitable, scientific or educational purposes, no part of the net earnings of which inured or could inure to the benefit of any private shareholder or individual and no substantial part of the activities of which was carrying on

propaganda or otherwise attempting to influence legislation. During the year in question, the taxpayer engaged in no prohibited transactions as defined in Sec. 3813 of the I.R.C. and did not engage in any practices prohibited by Sec. 3814 of the I.R.C. Thus, it was exempt from income tax for said year.

Without limiting the generality of the foregoing ground for refund, there is attached hereto a statement setting forth in some detail the organization and operation of the taxpayer, the history of its attempts to secure a ruling of exempt status from the Bureau of Internal Revenue, and some of the reasons and authorities supporting taxpayer's position that, contrary to the prior Bureau rulings, during the year in question it was exempt and is entitled to the claimed refund.

I declare under the penalties of perjury that this claim (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true and correct.

Signed:

**RANDALL FOUNDATION,
INC.**

By /s/ PAUL M. RANDALL,
President.

Dated: 6/12/1953. [28]

EXHIBIT E

Randall Foundation—Sales of Stock

	Date Acquired	Date Sold	Shares	Sales Price	Cost	Gain or Loss
Bandini Petroleum Company	5/31/50	11/ 2/50	200	\$ 905.62	\$ 1,297.76	\$ (392.14)
	5/31/50	11/ 2/50	100	465.19	648.88	(183.69)
Totals			300	\$ 1,370.81	\$ 1,946.64	\$ (575.83)
Barker Bros., Inc.	6/19/50	7/ 5/50	100	\$ 1,677.96	\$ 1,819.00	\$ (141.04)
	6/20/50	8/11/50	100	1,680.96	1,831.56	(150.60)
	6/20/50	8/24/50	100	1,864.52	1,831.56	32.96
Totals			300	\$ 5,223.44	\$ 5,482.12	\$ (258.68)
Bishop Oil Company	6/21/50	7/19/50	100	\$ 1,233.62	\$ 1,404.44	\$ (170.82)
	6/29/50	7/19/50	100	1,333.62	1,216.00	117.62
	7/18/50	7/19/50	100	1,283.37	1,115.50	167.87
	7/18/50	7/19/50	100	1,283.37	1,115.50	167.87
	7/28/50	8/10/50	100	1,556.98	1,492.38	64.60
	7/28/50	10/ 4/50	100	1,171.43	1,492.38	(320.95)
	7/28/50	10/11/50	100	1,283.37	1,504.94	(221.57)
	8/23/50	1/18/51	100	1,345.56	1,517.50	(171.94)
	8/24/50	1/18/51	100	1,945.56	1,442.13	(96.57)
	8/24/50	1/19/51	100	1,382.85	1,442.13	(59.28)
	8/24/50	1/19/51	100	1,382.87	1,442.13	(59.26)
	8/24/50	1/19/51	100	1,382.87	1,429.56	(46.69)
	8/25/50	1/19/51	100	1,382.87	1,391.88	(9.01)
	9/ 5/50	1/19/51	100	1,382.87	1,379.31	3.56
	9/ 6/50	1/19/51	100	1,382.88	1,366.75	16.13
	9/ 7/50	1/19/51	100	1,382.87	1,354.19	28.68
	9/ 8/50	1/19/51	400	5,531.48	5,866.52	164.96
	10/25/50	1/19/51	100	1,382.87	1,216.00	166.87
	11/30/50	1/19/51	100	1,382.87	1,065.25	317.62
	11/30/50	2/16/51	100	1,432.62	1,065.25	367.37
	12/ 4/50	4/16/51	100	1,134.12	1,015.00	119.12
	12/13/50	4/24/51	100	1,158.99	977.13	181.86
	12 14/50	4/30/51	100	1,208.74	951.88	256.86
Totals			2,700	\$ 35,820.08	\$ 35,256.13	\$ 563.95
Bolsa Chica Oil Company	12/ 8/50	2/ 2/51	100	\$ 601.30	\$ 484.75	\$ 116.55
Calavares Cement Company	6/30/50	8/29/50	100	\$ 1,432.47	\$ 1,643.13	\$ (210.66)
	7/ 6/50	8/29/50	100	1,444.91	1,542.63	(97.72)
	8/15/50	9/ 7/50	100	1,531.96	1,417.00	114.96
	8/15/50	9/14/50	100	1,805.58	1,417.00	388.58
	8/16/50	2/19/51	100	1,730.96	1,404.44	326.52
Totals			500	\$ 7,945.88	\$ 7,424.20	\$ 521.68
Cities Service Corporation	7/17/50	7/25/50	50	\$ 3,591.37	\$ 3,317.87	\$ 273.50
	4/ 5/51	4/12/51	100	8,735.44	8,446.91	288.53
	4/24/51	4/16/51	75	6,510.84	6,901.95	(391.11)
Totals			225	\$ 18,837.65	\$ 18,666.73	\$ 170.92

Randall Foundation—Sales of Stock—(Continued)

	Date Acquired	Date Sold	Shares	Sales Price	Cost	Gain or Loss
Douglas Oil Company	12/18/50 12/20/50	3/ 1/51 3/ 1/51	875 125	\$ 2,263.19 323.31	\$ 1,780.63 254.38	\$ 482.56 68.93
Exeter Oil Company Class A	8/29/50 8/31/50 9/ 6/50 9/ 7/50 9/ 8/50 9/26/50 10/3/50 10/ 5/50 10/ 9/50	2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51 2/ 9/51	1,200 400 100 200 100 100 400 300	\$ 958.18 319.40 79.84 159.70 79.84 159.70 319.40 239.54	\$ 731.40 243.80 60.95 121.90 66.95 116.60 174.90	\$ 226.78 75.60 18.89 37.80 18.89 43.10 86.20 64.64
Fullerton Oil Company	12/ 5/50	12/ 5/50	100	\$ 3,099.94	\$ 3,099.94	**\$ 0
General Exploration Company	10/ 2/50 1/30/51 1/30/51 2/13/51	1/24/51 1/25/51 1/29/51 2/13/51	100 100 100 100	\$ 992.45 1,004.95 1,029.95 1,291.70	\$ 925.00 1,004.95 1,029.95 1,291.70	\$ 67.45 0 0 0
General Motors Corporation	4/24/51	4/16/51	50	\$ 2,570.84	\$ 2,689.94	\$ (119.10)
Long Bell Lumber Co.—Class A	8/17/50 9/11/50 11/15/50 11/21/50 10/ 6/50 10/10/50 10/11/50 10/13/50 10/16/50 10/27/50 10/30/50	11/ 2/50 11/ 2/50 10/30/50 10/30/50 11/15/50 11/27/50 12/ 4/50 12/ 8/50 1/ 4/51 1/ 4/51 1/ 9/51	100 100 100 100 100 100 100 100 100 100 100	\$ 2,641.56 2,654.00 1,992.14 1,992.14 2,355.51 2,330.64 2,268.45 2,392.82 2,741.06 2,606.44 2,905.85	\$ 2,773.75 2,673.25 1,787.50 1,775.00 2,811.44 2,761.19 2,698.38 2,660.69 2,597.88 2,535.06 2,623.00	\$ (132.19) (19.25) 204.64 217.14 (455.93) (430.55) (429.93) (267.87) 143.18 131.38 282.85
Long Bell Lumber Co.—Class B	4/11/51	4/11/51	100	\$ 554.35	\$ 500.00	\$ 54.35
Los Angeles Investment Company	2/20/51	4/ 2/51	10	\$ 3,483.33	\$ 3,466.00	\$ 17.33
Nash Kelvinator Corporation	6/29/50	7/ 3/50	100	\$ 1,867.77	\$ 1,831.56	\$ 36.21

* (Short Sale)
** (Donation)

Randall Foundation—Sales of Stock—(Continued)

	Date Acquired	Date Sold	Shares	Sales Price	Cost	Gain or Loss
Nordon Corporation	12/21/50	2/16/51	2,000	\$ 278.99	\$ 154.00	\$ 124.99
	4/19/51	4/19/51	4,000	1,077.96	1,077.96	0
	4/19/51	4/20/51	3,000	838.47	838.47	0
	4/26/51	4/27/51	1,000	249.49	249.49	0
			<u>10,000</u>	<u>\$ 2,444.91</u>	<u>\$ 2,319.92</u>	<u>\$ 124.99</u>
Reserve Oil and Gas Company	6/12/50	6/12/50	200	\$ 3,574.26	\$ 3,574.26	0
Signal Oil and Gas Co.—Class A	8/16/50	8/21/50	100	\$ 5,543.00	\$ 5,581.55	\$ (38.55)
	9/20/50	9/22/50	100	5,935.09	5,836.83	98.26
	12/13/50	11/28/50	100	6,092.44	6,092.44	0
	1/12/51	1/10/51	100	7,086.45	7,083.00	33.45
			<u>400</u>	<u>\$ 21,656.98</u>	<u>\$ 24,563.82</u>	<u>\$ 93.16</u>
Southern Calif. Petroleum Co.	11/10/50	11/24/50	100	\$ 1,482.36	\$ 1,366.75	\$ 115.61
	12/29/50	2/16/51	100	1,930.11	1,412.13	487.98
			<u>200</u>	<u>\$ 3,412.47</u>	<u>\$ 2,808.88</u>	<u>\$ 603.59</u>
Toledo Edison Company	7/10/50	7/13/50	250	\$ 2,492.95	\$ 2,492.95	0
Universal Consolidated Oil Co.	6/1/50	8/10/50	50	\$ 2,908.07	\$ 2,563.63	\$ 344.44
	6/9/50	8/9/50	100	5,816.15	5,131.10	685.05
	6/15/50	8/10/50	200	11,734.76	10,562.50	1,172.26
	6/16/50	8/17/50	100	6,142.09	5,327.75	814.34
	6/27/50	8/31/50	100	5,667.58	5,331.30	336.28
	6/29/50	8/10/50	50	2,920.54	2,632.55	287.99
	6/30/50	8/14/50	50	2,957.95	2,576.16	381.79
	7/3/50	8/31/50	50	2,839.50	2,526.83	312.67
	7/5/50	8/31/50	50	2,839.50	2,426.38	413.12
	7/5/50	11/28/50	50	2,833.26	2,488.44	344.82
	7/25/50	9/6/50	100	5,767.48	5,031.00	736.48
	7/27/50	9/6/50	100	5,667.58	5,227.50	440.08
	7/27/50	4/19/51	50	4,082.11	2,665.65	1,416.46
	8/21/50	4/19/51	100	8,264.93	6,054.56	2,210.37
	10/20/50	4/20/51	50	4,229.73	2,828.18	1,401.55
	10/23/50	4/19/51	100	8,165.03	5,731.70	2,433.33
11/2/50	4/19/51	100	8,060.47	5,831.80	2,228.67	
11/2/50	4/24/51	100	8,464.73	5,831.80	2,632.93	
2/20/51	2/28/51	50	4,113.28	3,866.88	246.40	
3/21/51	4/10/51	50	3,982.37	4,017.25	(34.88)	
4/9/51	4/19/51	50	3,980.37	3,967.13	13.24	
11/6/50	3/28/51	100	7,960.74	5,829.00	2,131.74	
11/16/50	3/29/51	50	3,882.62	2,815.80	1,066.82	
11/16/50	4/16/51	50	3,831.12	2,815.80	1,015.32	
12/8/50	4/16/51	50	3,831.12	2,663.59	1,167.53	
12/11/50	4/17/51	50	3,907.55	2,695.00	1,212.55	
12/27/50	4/17/51	50	3,907.55	2,889.44	1,018.11	
12/28/50	4/16/51	100	7,715.36	5,879.13	1,836.23	
		<u>2,150</u>		<u>\$149,306.80</u>	<u>\$120,873.50</u>	<u>\$ 28,433.30</u>
Grand Totals		<u>23,185</u>		<u>\$301,505.36</u>	<u>\$273,267.09</u>	<u>\$ 30,238.27</u>

** (Donation)

EXHIBIT F

Randall Foundation, Inc.—Sales of Capital Assets

Year 1951 Return

Fiscal Year May 1, 1951 to April 30, 1952

P. V. or No. of Shares	Date Acquired	Date Sold	Sales Price	Cost	Federal		Federal				
					Less Than 6 Months Gain	Loss	Less Than 6 Months Gain	Loss			
200	Bandini Petroleum Co.	6/19/50	11/30/51	\$ 658.12	\$ 1,398.76						
100	"	6/27/50	12/14/51	329.06	674.13						\$ 740.64
300	"	7/12/50	12/14/51	950.08	1,580.51						345.07
100	"	8/7/50	12/14/51	316.69	648.88						630.43
300	"	8/7/50	12/14/51	633.38	1,323.00						332.19
100	"	8/10/50	12/14/51	316.69	661.50						689.62
200	"	5/31/50	12/14/51	633.38	1,297.76						344.51
100	"	11/9/50	12/14/51	316.69	434.25						664.38
100	"	11/15/50	12/14/51	316.69	421.63						104.94
300	"	11/29/50	12/14/51	950.07	1,340.64						390.57
100	"	2/2/51	12/14/51	316.69	396.38						79.69
100	"	2/9/51	12/14/51	950.07	1,189.14						239.07
300	"	2/15/51	12/14/51	1,583.52	1,981.90						398.38
100	"	12/13/50	8/30/51	366.19	371.13		\$ 4.94				4.94
100	"	5/23/51	8/31/51	389.94	371.13						17.06
100	"	6/1/51	9/24/51	300.94	358.50	\$ 32.44					
100	"	6/1/51	12/12/51	341.44	358.50						
100	"	7/17/51	12/20/51	375.56	409.00						
100	"	8/16/51	12/26/51	353.81	345.88	7.93					
3,200	"	"	"	\$ 10,468.26	\$ 15,562.62	\$ 40.37	\$ 35.38				\$ 5,099.35
100	Bishop Oil Co.	11/7/51	11/13/51	\$ 1,196.31	\$ 1,203.89						
200	"	12/14/50	5/23/51	2,405.05	1,891.13	\$ 513.92	\$ 7.58				
100	"	12/15/50	10/5/51	1,208.24	989.25					\$ 368.89	
200	"	12/15/50	11/7/51	2,293.12	1,833.25					439.57	
100	"	12/29/50	12/14/51	1,221.18	1,140.63					80.55	
100	"	1/5/51	1/23/52	1,357.99	1,190.88					167.11	
200	"	1/14/51	1/29/52	2,660.80	2,331.50					323.30	
15	"	2/26/51	1/29/52	198.71	205.01						5.30
200	"	2/26/51	1/29/52	1,333.12	1,366.94						
100	"	3/2/51	1/29/52	2,666.24	2,619.65						33.82
200	"	3/2/51	1/29/52	1,333.12	1,269.36						
100	"	3/15/51	6/22/51	2,591.62	2,532.50					46.59	
100	"	3/5/51	7/2/51	1,258.49	1,298.56					63.76	
100	"	6/5/51	9/12/51	1,382.87	1,190.88					29.93	
100	"	7/2/51	10/4/51	1,308.24	1,153.19					191.99	
200	"	8/27/51	10/4/51	2,633.00	2,633.00					155.06	
100	"	9/11/51	10/4/51	1,308.24	1,303.94					16.52	
100	"	10/2/51	10/23/51	1,246.06	1,379.31					4.30	
100	"	10/29/51	10/23/51	1,246.06	1,216.45					133.25	
100	"	6/15/51	1/31/52	1,379.31	1,175.17					29.61	
2,515	"	"	"	\$ 32,312.25	\$ 29,824.49	\$ 983.92	\$ 157.35	\$ 1,700.31	\$ 39.12	204.14	
100	Allen B. Dumont Laboratories	5/18/51	2/4/52	\$ 1,765.44	\$ 1,643.56					\$ 121.88	
100	Balsa Chica Oil	12/10/51	2/13/52	477.56	560.50					\$ 82.94	
100	Balsa Chica Oil	11/10/51	2/13/52	477.56	636.25					158.69	
120	Calaveras Cement Co.	9/14/50	6/5/51	1,817.23	1,731.06					86.17	
50	Chrysler Corp.	5/20/51	6/7/51	3,522.17	3,925.78					403.61	
50	Chrysler Corp.	5/21/51	2/5/52	3,416.40	3,719.53						\$ 303.13
50	Cities Service Corp.	5/29/51	6/7/51	5,016.34	4,900.30					116.04	
				\$ 16,492.70	\$ 17,116.98	\$ 116.04	\$ 645.24	\$ 208.05	\$ 303.13		

1075	Douglas Oil Co.—Common	Various	Various	\$ 2,998.04	\$ 2,125.12	\$ 8.42	\$ 812.92
11	" " " "	5/21/51	10/25/51	31.49	23.07	*	
325	" " " "	5/21/51	12/14/51	961.84	681.43		280.41
100	" " " "	6/20/51	12/14/51	295.95	203.50		92.45
100	" " " "	6/20/51	12/10/51	295.95	203.50		1,350.50
1,300	" " " "	6/25/51	1/ 9/52	3,996.00	2,615.50		
200	" " " "	12/12/51	1/28/52	728.80	583.00		145.80
450	" " " "	12/14/52	1/28/52	1,639.80	1,298.25		341.55
3,561				\$ 10,887.87	\$ 7,763.37	\$ 680.67	\$ 2,443.83
100	General Exploration Co.	8/24/51	9/ 4/51	\$ 812.50	\$ 756.25	\$ 56.25	
50	Hancock Oil Co.—A	10/26/51	10/19/51	14,971.70	14,975.00	* \$ 3.30	
50	Hancock Oil Co.—A	10/29/51	10/23/51	15,446.69	15,025.00	* 421.69	\$ 637.06
100	Hudson Motor Car	3/ 7/51	12/ 5/51	1,320.13	1,957.19		
100	Hudson Motor Car	11/21/51	12/ 5/51	1,320.13	1,241.13	79.00	
300	International Motor Car	11/21/51	12/18/51	3,764.82	3,733.39	41.43	
100	International Motor Car	5/29/51	9/21/51	1,813.27	1,530.06	283.21	
100	International Tel. & Tel. Co.	5/10/51	9/17/51	1,713.77	1,618.00	95.77	
50	Nash Ketchum	6/19/51	4/27/51	977.96	956.90	* 21.06	
3,000	Nordon Corp.	6/19/51	5/16/51	628.47	420.00	* 208.47	
1,000	Nordon Corp.	1/29/52	10/26/51	229.49	190.00	* 39.49	
3,000	Nordon Corp.	Various	Various	618.47	618.47**		
50	Northern Pacific Railway	1/ 7/52	12/10/51	3,177.58	3,163.62	13.96	\$ 419.88
3,075	Oceanic Oil Co.	Various	Various	6,377.38	5,957.50		
1,000	Oceanic Oil Co.	5/ 1/51	8/20/51	1,855.21	1,691.95	163.26	349.09
103	Pacific Mutual Life Ins. Co.	9/22/51	4/10/52	482.51	831.60		
103	Signal Oil & Gas Co.—Class A	5/22/51	8/29/51	8,964.92	7,733.70	831.22	
100	" " " "	6/27/51	8/29/51	8,689.84	7,633.60	1,066.24	
100	" " " "	8/ 1/51	8/21/51	8,340.15	7,553.53	781.62	
100	" " " "	10/ 9/51	9/19/51	9,663.80	9,385.35	278.45	
100	" " " "	6/27/51	8/ 8/51	8,215.28	7,633.60	581.68	
100	" " " "	10/ 9/51	9/18/51	9,301.67	9,385.35	* 83.68	
				\$108,235.74	\$103,985.49	\$ 4,983.50	\$ 86.98
				\$ 2,220.00	\$ 2,220.00		\$ 986.15
950	Onion Universal Consolidated Oil Co.	5/31/51	5/31/51	\$ 2,220.00	\$ 56,730.30	26,621.80	
50	" " " "	Various	Various	83,342.10	3,190.19	\$ 792.18	
50	" " " "	1/ 9/51	10/24/51	3,982.37	3,190.19	790.18	
50	" " " "	1/14/51	10/24/51	3,989.62	3,190.19	799.43	
50	" " " "	1/14/51	11/ 5/51	4,007.29	3,165.13	842.16	
100	" " " "	1/14/51	11/ 7/51	7,965.24	6,330.25	1,634.99	
500	" " " "	Various	Various	39,650.11	42,501.77		\$ 2,851.66
50	" " " "	12/ 8/51	2/ 5/51	3,982.37	3,566.13	416.24	
50	" " " "	12/ 4/51	2/ 5/51	3,982.37	3,516.00	466.37	
500	" " " "	Various	Various	42,946.98	31,170.71	12,776.27	
100	" " " "	1/15/51	9/21/51	7,989.67	6,430.50	1,560.17	
200	" " " "	1/15/51	10/31/51	16,330.99	12,861.00	2,469.99	
50	" " " "	4/25/51	11/ 2/51	3,955.43	4,217.75		262.32
50	" " " "	4/14/51	11/16/51	3,633.24	3,942.83		300.50
50	" " " "	6/27/51	12/ 4/51	3,583.37	3,267.88	\$ 684.51	
200	" " " "	Various	2/ 5/52	16,002.27	17,234.41		1,232.14
100	" " " "	11/ 6/50	5/ 1/51	8,559.22	7,934.25	624.97	
3,100				\$260,013.01	\$213,429.48	\$43,125.65	\$ 7,878.10
				\$ 2,606.85	\$ 2,690.68		\$ 4,655.71
50	U. S. Smelting and Refining Co.	4/27/51	6/ 7/51	\$ 2,606.85	\$ 2,690.68	\$ 83.83	
100	U. S. Smelting and Refining Co.	4/27/51	6/22/51	2,718.84	2,690.67	28.17	
100	U. S. Smelting and Refining Co.	5/23/51	8/ 2/51	5,611.23	5,181.15	430.08	
50	U. S. Steel Corp.	5/21/51	4/16/51	2,082.78	2,196.79		126.51
100	Weststates Petroleum—Preferred	12/ 6/50	6/ 7/51	601.30	459.50		\$ 141.80
				\$ 13,571.00	\$ 13,218.79	\$ 458.25	\$ 247.84
				\$451,980.83	\$400,901.22	\$51,068.40	\$13,711.97
	Grand Totals			400,901.22	1,857.30	11,083.46	\$1,083.46
	Less Total Loss						\$ 2,628.51
	Net Gain			\$ 51,079.61	\$48,451.10		\$ 2,628.51

Affidavit of Service by Mail attached.
[Endorsed]: Filed December 18, 1953.

* (Short Sale)
** (Donation)

[Title of District Court and Cause.]

ANSWER

Comes Now the defendant in the above-entitled action and, in answer to plaintiff's complaint, admits, denies and alleges:

I.

Defendant denies the allegations contained in paragraph I of plaintiff's complaint, except it is admitted that plaintiff is a California corporation with its principal place of business in Los Angeles County, California; it is further admitted that the corporation was formed on or about May 11, 1950.

II.

Admits the allegations contained in paragraph II thereof.

III.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph III of plaintiff's complaint, except it is admitted that plaintiff filed with the Internal Revenue Service an application for exemption from federal income tax under Section 101(6) of the Internal Revenue Code and that said application was rejected by the Internal Revenue Service on September 12, 1951; it is further admitted that the [38] Director of Internal Revenue of Los Angeles demanded that plaintiff file corporate income tax returns for its fiscal years ending April 30, 1951, and April 30, 1952, and that plaintiff filed with said Director, on June 10, 1953, income

tax returns for the year ending April 30, 1951, paying a tax thereon of \$6,677.13, and for the year ending April 30, 1952, paying a tax thereon of \$14,113.24.

IV.

Defendant denies the allegations contained in paragraph IV of plaintiff's complaint, except it is admitted that on August 21, 1953, plaintiff paid an additional tax for the year ending April 30, 1951, in the amount of \$2,184.23, and for the year ending April 30, 1952, additional tax in the amount of \$4,328.51.

V.

Defendant denies the allegations contained in paragraph V of plaintiff's complaint, except it is admitted that on June 12, 1953, plaintiff filed with defendant a claim for refund for its fiscal year ending April 30, 1951; it is also admitted that a copy of said claim (exclusive of four pages headed "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.") is attached to the complaint as Exhibit C, but each and every allegation and conclusion contained therein is specifically denied.

VI.

Defendant denies the allegations contained in paragraph VI of plaintiff's complaint, except it is admitted that on June 12, 1953, plaintiff filed with defendant a claim for refund for its fiscal year ending April 30, 1952; it is also admitted that a copy of said claim (exclusive of four pages headed "Statement Attached to Claim for Refund of In-

come Tax of Randall Foundation, Inc.’’) is attached to the complaint as Exhibit D, but each and every allegation and conclusion contained therein is specifically denied.

VII.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the matters alleged in and under “Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.,” but defendant admits that said claim for refund contained the identical statements set forth in subsections [39] 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of paragraph VII of plaintiff’s complaint.

VIII.

Denies each and every allegation contained in paragraph VIII.

IX.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph IX of plaintiff’s complaint, except it is admitted that attached to the complaint as Exhibits E and F are schedules containing sales of securities or property by plaintiff during its fiscal years ending April 30, 1951, and April 30, 1952, respectively.

X.

Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph X of plaintiff’s complaint.

XI.

Defendant admits the allegations contained in paragraph XI of plaintiff's complaint.

XII.

Defendant admits the allegations contained in paragraph XII of plaintiff's complaint.

Wherefore, having fully answered, defendant prays that he be hence dismissed with his costs in this behalf expended.

LAUGHLIN E. WATERS,
United States Attorney;

EDWARD R. McHALE,
Assistant U. S. Attorney,
Chief, Tax Division;

/s/ EDWARD R. McHALE,
Attorneys for Defendant.

Affidavit of Service by Mail Attached.

[Endorsed]: Filed April 21, 1954. [40]

[Title of District Court and Cause.]

STIPULATION OF FACTS

It Is Hereby Stipulated by and between the parties hereto that, in addition to the allegations in plaintiff's complaint which have not been controverted by defendant's answer, the following facts

are true and correct. The relevancy or materiality of said facts is not stipulated.

I.

Plaintiff is, and at all times herein mentioned has been, a California corporation, with its principal place of business in Los Angeles County, California. It was formed on or about May 11, 1950. A true and correct copy of its Articles of Incorporation filed with the California Secretary of State at the time of its organization is attached to the complaint on file herein as Exhibit "A." A true and correct copy of a Certificate of Amendment to said Articles filed with the California Secretary of State on October 9, 1952, is attached [42] to the complaint herein as Exhibit "B." There have been no other amendments to its Articles of Incorporation, and the Articles as thus amended are **presently in effect**.

II.

Plaintiff adopted a fiscal year ended April 30th, and shortly after the close of its first fiscal year ended April 30, 1951, it filed with the Internal Revenue Service an application for exemption from Federal income tax under Section 101(6) of the Internal Revenue Code. Said application was rejected by the said Service on September 12, 1951. Thereafter, plaintiff through its various tax advisers attempted to convince the Service that it was entitled to such tax exemption but its efforts were unsuccessful, and the Service later denied plaintiff's application for exemption under Section 101(6) for its

fiscal year ended April 30, 1952. In May, 1953, plaintiff employed the Los Angeles law firm of Gibson, Dunn & Crutcher to assist in its efforts to obtain exemption from Federal income taxes. At that time, plaintiff was faced with a demand of the Director of Internal Revenue of Los Angeles to file corporate income tax returns for its fiscal years ending April 30, 1951, and April 30, 1952, and upon advice of said law firm, plaintiff filed with said Director on June 10, 1953, income tax returns for said years computing a tax due for the year ended April 30, 1951, of \$6,677.13, and for the year ended April 30, 1952, of \$14,113.24. The amounts of tax shown due per said returns were paid to said Director on or about June 10, 1953.

III.

The Director of Internal Revenue at Los Angeles demanded payment of additional tax for the year ended April 30, 1951, in the amount of \$14.32, plus penalty for unreasonable delay in filing said return of \$1,672.86, plus interest of \$497.05. Plaintiff paid these sums on August 21, 1953. The Director of Internal Revenue at Los Angeles demanded payment of additional tax for the year ended April 30, 1952, in the amount of \$26.28, plus penalty for unreasonable delay in [43] filing said return of \$3,534.88, plus interest of \$767.35. Plaintiff paid these sums on August 21, 1953.

IV.

Under date of June 12, 1953, plaintiff filed with

the Director of Internal Revenue at Los Angeles a claim for refund of tax originally paid for its fiscal year ended April 30, 1951, a true and correct photostatic copy of which (exclusive of four pages thereof appearing thereon under the heading "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.," which pages are pleaded in the complaint herein in haec verba) is attached to said complaint and marked Exhibit "C."

V.

Under date of June 12, 1953, plaintiff filed with defendant a claim for refund of the tax paid pursuant to its return for the year ended April 30, 1952, a true and correct photostatic copy of which (exclusive of four pages thereof appearing under the heading "Statement Attached to Claim for Refund of Income Tax of Randall Foundation, Inc.," and exclusive of five pages thereof appearing under the heading "Memorandum in Support of Taxpayer's Position" which is identical with the statement under said heading appearing as a part of Exhibit "C" to plaintiff's complaint herein) is attached to said complaint and marked Exhibit "D."

VI.

Between the time of the organization of plaintiff and April 30, 1952, gifts of the following property were made by Paul M. Randall to plaintiff on the following dates:

Date	Type of Property	Approximate Market Value at Date of Gift
6/12/50	200 shs.—Reserve Oil & Gas	\$ 3,574.26
7/10/50	250 shs.—Toledo Edison	2,492.95
12/ 5/50	100 shs.—Fullerton Oil	3,099.94
12/13/50	100 shs.—Signal Oil & Gas Co.	6,092.44
1/30/51	200 shs.—General Exploration	2,034.90
2/13/51	100 shs.—General Exploration	1,291.70
4/19/51	7000 shs.—Nordon Corp.	1,916.43
4/26/51	1000 shs.—Nordon Corp.	249.49
4/30/52	1/4 sh. —Hancock Oil Co.	54.50
4/30/52	3000 shs.—Nordon Corp.	618.47
Total		\$ 21,425.08

VII.

Between the dates of June 13, 1950, and April 9, 1951, Paul M. Randall made loans to the plaintiff Foundation totaling \$155,200.00. The date of each loan and the amount thereof are as follows:

Date	Amount
6/13/50	\$ 40,000.00
1/ 8/51	14,000.00
1/12/51	7,000.00
1/17/51	12,500.00
3/14/51	1,900.00
3/27/51	7,800.00
4/ 5/51	2,800.00
4/ 9/51	60,000.00
4/ 5/51	9,200.00
Total	\$155,200.00

These loans were repaid by payments from the plaintiff Foundation to Paul M. Randall as follows:

Date	Amount
5/29/51	\$ 40,000.00
12/27/51	30,000.00
2/ 4/52	85,200.00
Total	\$155,200.00

On the latter date, the plaintiff Foundation also paid Mr. Randall \$3,617.69 which purported to represent interest at the rate of $2\frac{1}{2}\%$ per annum on the aforesaid loans. By applying the aforesaid repayments proportionately to the earliest loans and computing interest at $2\frac{1}{2}\%$ per annum on outstanding balances, using a 30-day month, the total interest at $2\frac{1}{2}\%$ per annum would have been \$3,458.51. The books of the plaintiff Foundation, as examined for all periods prior to April 30, 1953, do not reflect any loans from Paul M. Randall to the plaintiff Foundation other than those set forth above, except that between the date of November 8, 1950, and January 12, 1951, said books reflect that Paul M. Randall loaned to said Foundation a total of 1150 shares of the capital stock of Universal Consolidated Oil Company, and said books reflect no interest or other charge made by Paul M. Randall for such loan.

VIII.

At the time of the aforesaid loans, Paul M. Randall was indebted on margin accounts of fluctuating amounts to the brokerage houses of Akin-Lambert Co., Inc., and Harbison & Henderson Company. The interest which Paul Randall personally was charged on said indebtedness depended on two factors:

- (i) The prime effective rate of interest; and
- (ii) The amount of his borrowings upon said accounts.

The interest rate charged by said brokerage houses to Paul Randall personally on said indebt-

edness during the months from May, 1950, through December, 1951, and the amount of interest so charged were as follows:

Month	Akin-Lambert Co., Inc.		Harbison & Henderson Co.	
1950	Rate	Amount	Rate	Amount
June	2%	\$285.65	2%	\$266.18
July	2%	319.24	2%	266.63
August	2%	315.43	2%	261.92
September	2%	297.73	2%	234.54
October	2¼%	321.97	2½%	317.04
November	2¼%	302.16	2½%	307.70
December	2¼%	281.19	2¼%	241.02
1951				
January	2½%	447.40	2½%	260.57
February	2½%	460.65	2½%	239.00
March	2½%	518.34	2½%	265.20
April	2½%	428.05	2½%	256.49
May	2½% & 3%	388.68	3%	260.15
June	3%	372.02	3½%	117.66
July	3%	448.11	3%	120.61
August	3%	505.41	3%	129.49
September	3%	499.14	3%	125.00
October	3%	552.54	3%	125.94
November	3%	413.56	3% (10 days' Int.)	50.00
December	3%	440.25		

The \$40,000 loaned by Paul M. Randall to the plaintiff Foundation on June 13, 1950, was borrowed at the same time by him on the aforesaid Akin-Lambert margin account, but since some of said loans were made by check on Paul Randall's personal account, it is not possible to determine the exact source of each loan to the Foundation.

IX.

During the period of time between the formation of plaintiff Foundation and April 30, 1952, it made

the following gifts to various charitable or non-profit educational organizations on the following dates: [47]

Date	Organization	Amount
4/24/51	Children's Hospital Society of L.A.	\$ 500.00
5/26/51	Sister Elizabeth Kenny Foundation	100.00
7/22/51	St. John's Hospital	1,000.00
8/31/51	Montecito School for Girls	2,000.00
4/30/52	David Seabury School of Psychology	2,000.00
4/30/52	Bureau of Welfare, California Teachers' Association	1,000.00
4/30/52	American Red Cross	1,000.00
4/30/52	Y.M.C.A. of South Pasadena	1,000.00
4/30/52	All Nations Foundation	1,000.00
4/30/52	Children's Hospital of Los Angeles	500.00
4/30/52	Montecito Schools, Inc.	500.00
4/30/52	Girl Scouts of South Pasadena	100.00
4/30/52	Cate School	1,000.00
	Total	\$ 11,700.00

X.

Schedule F attached to plaintiff's complaint herein is a correct schedule containing all sales of securities or property by plaintiff during the fiscal year ended April 30, 1952, and Schedule E attached to plaintiff's complaint herein is a correct schedule containing all sales of securities or property by plaintiff during its fiscal year ended April 30, 1951.

XI.

The income, expenses, and gains from disposition and sale of securities of plaintiff for its three fiscal years ended April 30, 1951; April 30, 1952, and April 30, 1953, were as follows:

	Year Ended		
	4/30/51	4/30/52	4/30/53
Dividends and interest	\$10,285.00	\$ 7,081.93	\$ 2,937.67
Expenses	1,532.36	8,271.99	5,966.03
Gains from disposition and sale of securities	30,238.27	51,079.61	5,456.01

XII.

In response to the aforesaid application for exemption for the fiscal year ended April 30, 1951, the Commissioner of Internal Revenue in Washington ruled on September 12, 1951, that the plaintiff Foundation was not entitled to an exemption. The basis of said ruling is contained in the following paragraph thereof:

“It is the opinion of this office that the income received by you has not been devoted to the purposes for which you were incorporated in such a manner and to such an extent as to constitute operations for such purposes within the meaning of section 101(6) of the Code. Furthermore, your activities are primarily those of an organization engaged in the ordinary business of buying and selling securities. An organization which is operated for the primary purpose of carrying on a trade or business for profit is not exempt from Federal income tax notwithstanding all of its profits are payable to organizations or purposes specified in section 101(6) of the Internal Revenue Code.”

XIII.

Subsequent to said rejection of its claim under Section 101(6), the plaintiff Foundation filed sev-

eral requests for reconsideration, involving both the facts prior to the amendment of the Articles referred to in Paragraph I of this stipulation and the amendment to the Bylaws set forth hereinafter, and the facts subsequent to said amendments. In rulings dated January 15, 1952, June 16, 1952, and January 8, 1953, the Bureau adhered to its original ruling, and in each instance concluded that the plaintiff Foundation [49] was not exempt. The basis of the ruling of January 8, 1953, is contained in the following paragraph thereof:

“A review has been made of the evidence which formed the basis of Bureau rulings of September 12, 1951; January 15, 1952, and June 16, 1952, in connection with the information subsequently submitted and the statements made at conferences held with representatives of this office in connection with this matter. It is believed on the basis of the facts and evidence submitted, that your activities have been primarily those of an organization engaged in the ordinary business of buying and selling securities, and that there is no error in the conclusion reached in Bureau rulings of September 12, 1951; January 15, 1952, and June 16, 1952, and they are, therefore, hereby affirmed.”

XIV.

Pages 10 through 18 of this Stipulation contain a true and correct copy of the Bylaws of plaintiff Foundation and the amendment to said Bylaws of September 30, 1952. There have been no other

amendments to said Bylaws and said Bylaws as thus amended are presently in effect.

XV.

Pages 19 through 57 of this Stipulation contain in chronological order a true copy of all Minutes and all other documents or papers contained in the Minute Book of plaintiff Foundation, except the Articles, amended Articles, Bylaws, and amended Bylaws.

Dated this 27th day of September, 1954.

GIBSON, DUNN & CRUTCHER,
BERT A. LEWIS,

By /s/ BERT A. LEWIS,
Attorneys for Plaintiff.

LAUGHLIN E. WATERS,
United States Attorney;

EDWARD R. McHALE,
Assistant U. S. Attorney,
Chief, Tax Division;

/s/ EDWARD R. McHALE,
Attorneys for Defendant. [50]

Bylaws of Randall Foundation, Inc.

Randall Foundation, Inc., is a non-profit corporation organized pursuant to the non-profit corporations law of the State of California, and particularly Part I of Division 2 of Title I of the Corporations Code.

Article I.

Corporate Powers:

The corporate powers of this corporation shall be vested primarily in a board of five trustees, a majority of whom shall constitute a quorum for the purpose of transacting all business.

Article II.

Term of Office and Election of Trustees:

The Trustees named in the Articles of Incorporation shall act as Trustees for the following periods, respectively, and until the election or qualification of their successors, to wit:

Paul Randall	For life
Frank R. Randall	2 years
Dorothy R. Ward	1 year
Frederick W. Bailes	1 year
James A. Flanagan	1 year

Upon the expiration of the term of any Trustee or upon any vacancy occurring in the Board of Trustees or upon any change in the number of the Board requiring additional members, the then remaining members of the Board of Trustees either at a special meeting called for such purpose or at their next regular meeting, shall elect the Trustee or Trustees necessary to complete the Board, and shall thereupon fix, by resolution, the term for which such Trustee or Trustees shall serve. [51]

Article III.

Powers of Trustees:

The Board of Trustees shall have power:

(1) To appoint and remove officers, agents and employees of the corporation, prescribe their duties, and fix the compensation and term of office or service.

(2) To conduct, manage and control the business affairs and property of the corporation, and to make rules and regulations for the guidance of the corporation's officers and management of business affairs of the corporation.

(3) To incur indebtedness for purposes of the corporation, the terms and amounts of such indebtedness to be entered upon the usual books of the corporation; to invest the funds of the corporation for the purpose of building up reserves for foundation purposes; to determine the charities, educational institutions, or religious institutions which may from time to time be the beneficiary of the Foundation's gifts.

(4) To perform all other duties and exercise all other powers permitted by law to be done or exercised by the Trustees or members of a non-profit organization organized under Part I of Division 2 of Title I of the Corporations Code of the State of California.

Article IV.

Officers and Their Duties:

The Board of Trustees of the corporation shall elect a President, a Vice President, a Secretary and a Treasurer.

The President of the Board of Trustees shall preside over all meetings of the Board. He shall sign as President all contracts and other instruments of writing which have been first approved or authorized by the Board of Trustees, unless some other officer is [52] designated in the resolution. He may call the Trustees together whenever he deems it necessary. If at any time the President shall be unable to act, the Vice President shall take his place and perform his duties, and if for any reason the Vice President shall be unable to act, the Board of Trustees shall appoint some other member of the Board to act, in whom shall be vested, for the time being, all of the duties and functions of the office. The President shall perform all duties and acts ordinarily performed by the head of a non-profit foundation and to the extent authorized by law and by resolution of the Board of Trustees.

Vice President:

The Vice President shall act in place and in stead of the President whenever the latter is unable to act and perform such other duties as may from time to time be prescribed by the Board of Trustees.

Secretary :

The Secretary shall keep a record of the acts and proceedings of the Board of Trustees. He shall keep the corporate seal of the corporation, sign and affix the seal of the corporation to all contracts, certificates and other papers authorized to be executed by the Board of Trustees. He shall serve notices required, either by law or by the Bylaws of the corporation, and in the event of failure to do so, then such notices may be served by any person thereunto authorized by the President or by the Board of Trustees.

Treasurer :

The Treasurer shall receive and keep all of the funds of the corporation, and pay them out only in accordance with the procedure adopted and approved by the Board of Trustees. He shall promptly deposit all moneys or credits of the corporation in a bank or banks to be selected by the Board of Trustees; record the date, amount and description of each item thereof; and, as Treasurer, when and as required by the Board of Trustees, will execute a good and sufficient bond to protect the interests of the corporation. [53]

Article V.

Bylaws may be adopted, amended, altered or repealed at any regular meeting of the Trustees by the affirmative vote of a majority of the trustees then in office, or by the written assent of a majority of the Trustees then in office.

Article VI.

Meetings of Trustees:

Regular meetings of the Trustees of the corporation shall be held on the last Monday of each month, beginning with the last Monday of the month of July, 1950. Such meetings shall be without notice. Special meetings shall be held on call of the President by personal notice to each Trustee at least twenty-four hours before such meeting, or by mail, postage prepaid, and such notice mailed to each Trustee at least forty-eight hours before such meeting at his last known address, as shown by the records of the corporation. Special meetings may be held at any place or time when all of the Trustees are present and the minutes of the meeting show the consent to hold such meetings.

Article VII.

Upon dissolution or winding up of the corporation, after paying or adequately providing for the debts and obligations of the corporation, any remaining assets shall be distributed to a tax exempt religious, educational or charitable organization located in California and selected by the Board of Trustees.

Know All Men by These Presents:

That we, the undersigned, being all of the persons appointed in the Articles of Incorporation to act as the first Board of Directors of Randall Foundation, Inc., hereby assent to the foregoing Bylaws

and adopt the same as the Bylaws of this corporation. [54]

In Witness Whereof, we have set our hands and seals this 21st day of May, 1950.

/s/ PAUL M. RANDALL,
/s/ FRANK R. RANDALL,
/s/ DOROTHY R. WARD,
/s/ JAMES A. FLANAGAN,
/s/ FREDERICK W. BAILES. [55]

This Is to Certify that I am the duly elected, qualified and acting Secretary of Randall Foundation, Inc., and that the above and foregoing Bylaws were adopted as the Bylaws of said corporation on the 21st day of May, 1950, by the persons appointed in the Articles of Incorporation to act as the first Trustees of said corporation.

In Witness Whereof, I have hereunto set my hand this 21st day of May, 1950.

/s/ DOROTHY R. WARD,
Secretary. [56]

Amendments to Bylaws of
Randall Foundation, Inc.

Resolved that the bylaws of Randall Foundation, Inc., be and the same are hereby amended in the following respects, to wit:

One: Subparagraphs (3) and (4) of Article III of the bylaws are hereby amended to read as follows:

(3) To incur indebtedness for purposes of the corporation, the terms and amounts of such indebtedness to be entered upon the usual books of the corporation; to invest the funds of the corporation for the purpose of building up a fund for the erection and maintenance of the home described in Article II of the Amended Articles of Incorporation of this corporation.

(4) To perform all other duties and exercise all other powers permitted by law to be done or exercised by the trustees or members of a non-profit organization organized under Part I of Division 2 of Title I of the Corporation Code of the State of California, and permitted by Section 101 (6) of the United States Internal Revenue Code.

Two: Article VII of the bylaws as it now reads is deleted and said Article VII shall read as follows:

VII.

No member shall have any proprietary interest whatever in or to any of the assets of the corporation, and no income, increment, or other pecuniary gain, benefit or advantage of any kind, in any way arising from or growing out of the assets of the corporation or their operation will inure to or in any way go to or vest in any member of the corporation.

Three: There shall be added to the bylaws an

Article VIII, which said Article VIII shall read as follows: [57]

VIII.

It is intended that in accomplishing the primary purpose of the corporation as set forth in Article II of the articles of incorporation, construction of the home described in said Article II be commenced by December 31, 1957, or that the corporation establish facilities for the actual residence of at least 50 inmates not later than December 31, 1959.

If the corporation fails in the accomplishment of the primary purpose set forth in Article II of the articles of incorporation, then the trustees shall consider appropriate resolutions for dissolution of the corporation after paying or adequately providing for the debts and obligations of the corporation. Any remaining assets shall be distributed to such religious, educational or charitable organizations as may be selected by the Board of Trustees; however, the Board of Trustees may designate only such organizations as are located in the State of California and which qualify as exempt organizations under the provisions of Section 101 (6) of the United States Internal Revenue Code.

In the event that the corporation shall be dissolved in accordance with the provisions of this Article VIII, the trustees shall make distribution to exempt organizations within 12 months of the date of the resolution dissolving the corporation.

Resolved Further that a complete copy of the bylaws as amended be now made and attached to

these Minutes and that said bylaws as amended be made a part of the books and records of this corporation.

There being no further business to come before the meeting, the meeting was upon motion duly made and seconded, and vote being taken, adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL M. RANDALL,
President. [58]

This is to certify that I am the duly elected, qualified and acting secretary of Randall Foundation, Inc., and that a regular meeting of the Board of Trustees of Randall Foundation, Inc., was duly and regularly held on the last Monday in September, to wit, September 29, 1952, at the hour of 2:15 p.m., at the principal office of the corporation, in accordance with the provisions of the bylaws of the corporation with respect to such regular meeting, and that at said meeting there were at all times present and acting a quorum of the Board of Trustees, to wit, four of the five trustees of said corporation, and that the within Minutes to which this certification is attached are the Minutes of said regular meeting so held, and that at said meeting the resolutions set forth in the within Minutes, including the resolutions specifically amending the articles of incorporation and amending the bylaws of the corporation, were duly and regularly passed.

In Witness Whereof I have hereunto set my hand
this 30th day of September, 1952.

/s/ DOROTHY R. WARD,
Secretary. [59]

Waiver of Notice and Consent to Holding of First
Meeting of Incorporators and Directors of
Randall Foundation, Inc., a California Cor-
poration

We, the undersigned, being all of the incorpora-
tors and directors named in the Articles of Incor-
poration of Randall Foundation, Inc., a non-profit
California Corporation duly formed by the filing
of said Articles of Incorporation in the office of the
California Secretary of State on the 18th day of
May, 1950, and desiring to hold the first meeting
of the Incorporators and Directors of said corpora-
tion for the purpose of completing the organization
of its affairs, Do Hereby Waive Notice of said
meeting, and Consent to the holding thereof at 2050
Fremont, South Pasadena, California, in the City
of South Pasadena, County of Los Angeles, State of
California, on the 21st day of May, 1950, at 2:00
o'clock in the afternoon of said day, for the purpose
of adopting bylaws, electing officers, adopting a form
of corporate seal, and transacting such other busi-
ness as may be brought before said meeting; and do
hereby further agree that any business transacted
at said meeting shall be as valid and legal and of
the same force and effect as though said meeting
were held after notice duly given.

Witness our signatures this 21st day of May, 1950.

/s/ PAUL M. RANDALL,

.....

/s/ FRANK R. RANDALL,

.....

/s/ DOROTHY R. WARD,

.....

/s/ JAMES A. FLANAGAN,

.....

/s/ FREDERICK W. BAILES, [60]

.....

Minutes of First Meeting of Incorporators and
Directors of Randall Foundation, Inc., a Cali-
fornia Corporation

The incorporators and directors named in the Articles of Incorporation of Randall Foundation, Inc., a non-profit California Corporation, and constituting the Board of Directors of said corporation, held their first meeting at 2050 Fremont in the City of South Pasadena, County of Los Angeles, State of California, on the 21st day of May, 1950, at 2:00 o'clock in the afternoon of said day.

Present at said meeting were all of the incorporators and Directors of said corporation named in its Articles of Incorporation.

On motion and by unanimous vote, Mr. Paul Randall was elected temporary Chairman and Mrs. Dorothy R. Ward was elected temporary secretary of the meeting.

The Chairman announced that the meeting was held pursuant to written waiver of notice thereof and consent thereto signed by all of the incorporators and directors of the corporation named as such in the Articles of Incorporation; such waiver and consent was presented to the meeting, and upon motion made and unanimously carried, was made a part of the records of the meeting, and now precedes the minutes of this meeting in the book of minutes of the corporation.

The Chairman stated that the original Articles of Incorporation of the corporation had been filed in the office of the California Secretary of State on the 18th day of May, 1950, and that a copy thereof, certified by said Secretary of State, had been filed in the office of the County Clerk of Los Angeles County, on the 23rd day of May, 1950, being the County in which the corporation is to have its principal office; he presented to the meeting a certified copy of said Articles of Incorporation, and the secretary was directed to insert said copy in the Book of Minutes of the corporation. [61]

The matter of the adoption of Bylaws for the regulation of the affairs of the corporation was next considered. The secretary presented to the meeting a form of bylaws, which were duly considered and discussed. On motion duly made and unanimously carried, the following resolutions were adopted, to wit:

Resolved, That the bylaws presented to this meeting and discussed thereat be, and the same hereby

are, adopted as and for the bylaws of this corporation.

Resolved Further, That the secretary of this corporation be, and he hereby is, authorized and directed to execute a certificate of the adoption of said bylaws and to insert said bylaws as so certified in the Book of Minutes of this corporation, and to see that a copy of said bylaws, similarly certified, is kept at the principal office for the transaction of business of this corporation, in accordance with Section 302 of the California Civil Code.

The meeting then proceeded to the election of officers. The following were duly elected to the offices indicated after the names of each:

1. President: Mr. Paul Randall.
2. Vice-President:
3. Secretary: Dorothy R. Ward.
4. Treasurer: Dorothy R. Ward.

Each officer so elected being present accepted his or her office, and, thereafter, the president presided at the meeting as Chairman, and the secretary acted as secretary of the meeting.

The secretary presented for approval of the meeting a proposed seal of the corporation, consisting of two concentric circles with the words "Randall Foundation, Inc., California," and the words and figures "Incorporated May 18, 1950," in the form and figure as follows: [62]

(Seal)

(Seal)

On motion duly made and unanimously carried, the following resolution was adopted:

Resolved, That the corporate seal, in the form, words and figures presented to this meeting, be, and the same hereby is, adopted as the seal of this corporation.

In order to provide for the payment of expenses of incorporation and organization of the corporation, on motion duly made and unanimously carried, the following resolution was adopted:

Resolved, That the president or vice-president and the treasurer of this corporation be, and they hereby are, authorized and directed to pay the expenses of the incorporation and organization of this corporation.

After some discussion, the location of the principal office of the corporation in Los Angeles County, California, the county named in the Articles of Incorporation as that in which the principal office for the transaction of the business of the corporation is to be located, was fixed pursuant to the following resolution, adopted, on motion duly made and unanimously carried:

Resolved, That 2050 Fremont Avenue, City of South Pasadena, California, be, and the same hereby is, designated and fixed as the principal office for the transaction of the business of this corporation in the County of Los Angeles, State of California.

To provide for a depository for the funds of the corporation, and to authorize certain officers to deal

with the corporate funds, the following resolution was adopted:

Resolved, That the funds of this corporation be deposited with Citizens National Trust & Savings Bank of Los Angeles County, California, main branch.

Resolved Further, That all checks, drafts and other instruments obligating this corporation to pay money, shall be signed by the President of this corporation, Paul Randall. [63]

The attorney for the corporation, to wit: James A. Flanagan, who has been serving temporarily as a director, then tendered his resignation to the Board, and upon motion duly made and seconded, and vote being taken, said resignation was accepted. The written resignation of Director James A. Flanagan was then ordered attached to the minutes of the meeting.

There being no further business to come before the meeting, upon motion, duly made, seconded and unanimously carried, the Meeting Adjourned.

/s/ PAUL RANDALL,
Temporary Secretary;

/s/ DOROTHY R. WARD,
Secretary.

Attest:

/s/ PAUL M. RANDALL,
Temporary Chairman;

/s/ PAUL RANDALL,
President and Chairman. [64]

June, 1950.

To the Board of Directors,
Randall Foundation, Inc.:

I hereby tender my resignation as a member of the Board of Directors of the corporation, to become effective as of the close of the first meeting of the Board.

/s/ JAMES A. FLANAGAN. [65]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held May 22, 1950, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul Randall, and upon the roll being called all of the then Trustees were found to be present.

The Chairman stated that the purpose of the meeting was to discuss the opening of a trading account in the name of the Foundation, with Aiken-Lambert Company, brokerage firm in Los Angeles, California, and upon motion being made and seconded and vote being taken, the following resolution was duly passed:

Whereas, this Corporation has received by way of loan and gift certain moneys and securities (all of same to date from Paul Randall, President of the Corporation); and

Whereas, it is deemed by the Corporation advisable, in order to build a fund to carry out the purposes of the Corporation, to authorize Paul Randall, President of the Corporation, to invest the funds of the Corporation advanced to it by the said Paul Randall, and to that end the Corporation desires to empower the said Paul Randall to act for the Corporation in dealing with securities and with the funds of the Corporation, and to open a trading account, or accounts, in the name of the Corporation, and buy and sell therein on behalf of the Corporation;

Now, Therefore, Be It Resolved: That Paul Randall, President of this Corporation, be and he hereby is, authorized and empowered for and on behalf of this Corporation, to establish and maintain one or more [66] accounts, which may be marginal accounts, with:

Aiken-Lambert Company

in the City of Los Angeles, State of California, for the purpose of purchasing, investing in, or otherwise acquiring, selling (including short-sales), transferring, exchanging or otherwise disposing of, and generally dealing in and with various forms of securities, including shares, stocks, bonds, rights to subscribe, option warrants, and certificates of interest, secured or unsecured.

Further that the fullest authority at all times with respect to such commitment, or with respect to any transaction deemed by the President, Paul

Randall, to be proper in connection therewith, is hereby conferred, including authority to give written or oral instructions to the Brokers with respect to said transaction, the only limitation on the authority herein given being that said Paul Randall, President, shall limit his stock purchases to that amount available from time to time by way of cash or securities in the treasury of the Corporation, said amount now being in the sum of \$40,000.00 cash, and shares of stock; though, as aforesaid, he may purchase on margin to the extent that the available assets of the Corporation permit.

The said President, Paul Randall, is further authorized to pay in cash or by checks and/or drafts drawn upon the funds of the corporation, such sums as may be necessary in connection with any of said accounts; to endorse any securities in order to pass title thereto; to direct the sale or exercise of any rights with respect to any securities; to accept delivery of any securities, and generally to do and take all action necessary in connection with said account or accounts. [67]

Be It Further Resolved, that the Brokers named herein may deal with Paul Randall, President, so empowered by the foregoing resolution, as though they were dealing with the Corporation itself.

Be It Further Resolved, that the said Brokers may rely upon the aforesaid resolution as continuing fully effective until the Brokers shall receive

due written notice of a change in, or the rescission of the authority so evidenced.

There being no further business to come before the meeting, on motion duly made and seconded, it was adjourned.

The signature of Paul Randall herein below shall constitute his approval of the understanding herein set forth.

/s/ DOROTHY R. WARD,
Secretary.

/s/ PAUL RANDALL. [68]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held June 16, 1950, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and upon the roll being called, all of the then Trustees were found to be present.

The Chairman stated that the purpose of the meeting was to acknowledge a loan from Paul M. Randall to the Foundation in the amount of \$40,000.00 and to issue a note therefor pursuant to the previous understanding of the Trustees with relation to this loan and other loans to follow.

Upon motion duly made, seconded and vote being taken, the following resolution was duly passed:

Resolved, That Whereas, this Foundation hopes to acquire assets for the Foundation purposes through the investment of funds secured by way of loan or gift from Paul M. Randall primarily; and

Whereas, by reason of the premises this corporation received certain shares of Reserve Oil and Gas Company stock from Paul M. Randall by way of Gift on June 12, 1950, and a loan of \$40,000.00 on June 13, 1950, which latter sum was credited to the account of the Foundation with Akin Lambert Co., Inc., brokerage firm, Los Angeles, California; and

Whereas, it was theretofore agreed and understood that in each instance where a loan is made to the Foundation the Foundation would issue its note payable on demand at any time after days from date, with interest at $2\frac{1}{2}\%$ payable at maturity; [69]

Now, Therefore, pursuant to such agreement and understanding, and for the purpose of carrying out the contemplated plan of the Foundation to acquire funds for investment in order to build up its treasury with assets to be applied to the purposes of the Foundation, the Foundation hereby acknowledges receipt by way of loan from Paul M. Randall of the sum of \$40,000.00 cash and the Secretary of the Foundation is hereby authorized and directed to execute and deliver to Paul M. Randall a promissory note of the Foundation, payable on demand at any time after days from date in the amount of \$40,000.00, bearing interest at $2\frac{1}{2}\%$ per annum, payable at maturity.

There being no further business to come before the meeting, on motion duly made and seconded, it was adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President. [70]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held October 16, 1950, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul Randall, and upon the roll being called, all of the Trustees were found to be present.

Mr. Randall stated to the meeting that the purpose thereof was to open additional trading accounts, similar to the one opened by the corporation in May, 1950, and authorizing him to invest funds of the corporation in the market with a view to building a reserve capable of carrying out the educational, charitable and other purposes of the Foundation.

After discussion had the following resolutions were, upon vote being taken, duly and regularly passed:

Whereas, this Corporation has received by way of loan and gift certain moneys and securities (all

of same to date from Paul Randall, President of the Corporation); and

Whereas, it is deemed by the Corporation advisable, in order to build a fund to carry out the purposes of the Corporation, to authorize Paul Randall, President of the Corporation, to invest the funds of the Corporation advanced to it by the said Paul Randall, and to that end the Corporation desires to empower the said Paul Randall to act for the Corporation in dealing with securities and with the funds of the Corporation, and to open a trading account, or accounts, in the name of the Corporation, and buy and sell therein on behalf of the Corporation;

Now, Therefore, Be It Resolved: That Paul Randall, President of this Corporation, be [71] and he hereby is authorized and empowered, for and on behalf of this Corporation, to establish and maintain one or more accounts, which may be marginal accounts, with:

Harbison & Henderson, Brokers;

E. F. Hutton & Co., Brokers;

Dean Witter & Co., Brokers;

all in the City of Los Angeles, State of California, for the purpose of purchasing, investing in, or otherwise acquiring, selling (including short-sales), transferring, exchanging, or otherwise disposing of, and generally dealing in and with various forms of securities, including shares, stocks, bonds, rights to subscribe, option warrants, and certificates of interest, secured or unsecured. Further, that the

fullest authority at all times with respect to such commitment, or with respect to any transaction deemed by the President, Paul Randall, to be proper in connection therewith, is hereby conferred, including authority to give written or oral instructions to the Brokers with respect to said transaction, the only limitation on the authority herein given being that said Paul Randall, President, shall limit his stock purchases to that amount available from time to time by way of cash or securities in the treasury of the Corporation, said amount now being in the sum of \$40,000.00 cash, and shares of Reserve Oil and Gas stock; though, as aforesaid, he may purchase on margin to the extent that the available assets of the Corporation permit.

The said President, Paul Randall, is further authorized to pay in cash or by checks and/or drafts drawn upon the funds of the corporation, such sums as may be necessary in connection with any of said accounts; to endorse any securities in order to pass title thereto; to direct the sale or [72] exercise of any rights with respect to any securities; to accept delivery of any securities, and generally to do and take all action necessary in connection with said account or accounts.

Be It Further Resolved, that the Brokers named herein may deal with Paul Randall, President, so empowered by the foregoing resolution, as though they were dealing with the Corporation itself.

Be It Further Resolved, that the said Brokers may rely upon the aforesaid resolution as continuing

fully effective until the Brokers shall receive due written notice of a change in, or the rescission of the authority so evidenced.

There being no further business to come before the meeting, on motion duly made and seconded, it was adjourned.

/s/ DOROTHY R. WARD,
Secretary. [73]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held January 8, 1951, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and upon roll being called all of the then Trustees were found to be present.

The Chairman stated that the purpose of the meeting was to discuss further borrowings of the Foundation and authorizing the execution of notes for loans made.

On Motion duly made, seconded and vote being taken, the following Resolution was duly passed:

Resolved, That Whereas, it has been the adopted policy of this Foundation to build its asset position through investments made with loans and gifts to the Foundation; and whereas, it has been the further policy of this Foundation to issue its demand note for loans made with interest at 2½% payable at maturity; and

Whereas, Paul M. Randall, the President of the Foundation, has heretofore loaned money to the Foundation, and has been willing to accept the Foundation demand note therefor; and

Whereas, it now appears advisable that this Foundation borrow from time to time additional moneys from Paul M. Randall, as he may be willing to loan same and to invest those moneys in shares of stock, which in the opinion of Paul M. Randall and the Board of Trustees will likely enhance in value to the profit of the Foundation,

Now, Therefore, be it resolved that by reason of the premises this Foundation borrow for the purposes above outlined such additional funds from Paul M. Randall from time [74] to time as he may be willing to loan upon the demand note of the Foundation at $2\frac{1}{2}\%$ interest, and the Secretary of this Foundation is hereby authorized and directed to issue on behalf of the Foundation from time to time and execute and deliver the note of the Foundation to Paul M. Randall for such sum or sums as he may loan to the Corporation, the note or notes so executed and delivered to be in exchange for cash or its equivalent and to be payable on demand at any time after days, and to bear interest at $2\frac{1}{2}\%$ payable at maturity.

Resolved, Further, that so long as Paul M. Randall is willing to loan money to the Foundation as aforesaid, upon the basis aforesaid, and looking only to the assets of the Foundation for repayment, no limit upon the borrowing for the purposes aforesaid

shall be fixed, but this arrangement, of course, may be changed from time to time by the Board of Trustees.

Some discussion was had about making a gift at this time to Children's Hospital Society of Los Angeles, and upon motion duly made, seconded, and carried, it was

Resolved, that Paul M. Randall of this Foundation be authorized to give the sum of \$500 to the Children's Hospital Society of Los Angeles, a charitable organization;

Be It Further Resolved, that the directors of this Foundation make an effort to seek out worthy causes to receive from time to time the bounty of this Foundation, and particularly give thought to the establishment or backing of some one special organization or institution or the founding thereof, with a view to having this Foundation play a major roll in the development of a special worthy charitable organization. [75]

There being no further business to come before the board, on motion duly made and seconded, the meeting adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President. [76]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held May 15, 1951, at the Principal Office
At 2:00 o'Clock P.M.

That meeting was called to order by the President, Paul M. Randall, and upon the roll being called all of the then Trustees were found to be present.

The President stated that the purpose of the meeting was to examine the annual statement of the Company, approve the matters connected therewith, and upon motion duly made, seconded and vote being taken, the following resolution was unanimously passed:

Resolved, That Whereas, the annual statement of the Foundation prepared by Sidney R. Reed & Co., Tax Counsellors and Auditors, has been exhibited and read to the meeting;

Now, Therefore, Be It Resolved that said statement be and the same is hereby approved as to all particulars, and the Board of Trustees do hereby acknowledge the receipt of the loans from Paul M. Randall in said statement set forth, and do hereby approve the execution and delivery by the Foundation of the Foundation's promissory notes to Paul M. Randall, payable on demand at any time after days in the amounts as set forth on Exhibit "C" of the annual statement aforesaid, and bearing interest at 2½% payable at maturity;

Resolved, Further, that the President and/or Secretary of this Foundation be and they are, or either

of them is, hereby authorized to pay to Sidney R. Reed & Co. the amount of the bill submitted for the preparation of such annual statement, for the preparation of tax exemption affidavits and other matters connected therewith. [77]

Be It Further Resolved, that whereas this corporation has received to date in excess of \$20,000.00 by way of gifts from Paul M. Randall and loans totalling \$155,200.00, by reason of all of which the Foundation has been able to operate at a profit for the year and acquire an earned surplus of \$59,243.02.

Now, Therefore, the Board of Trustees wish to record its appreciation of the help and assistance given by the said Paul M. Randall and to acknowledge that his contributions of time and money are making possible the growth and attainment of the purposes of the Foundation.

Be It Further Resolved, that the donation made by the Foundation to Children's Hospital Society of Los Angeles, as shown in the annual statement be and the same is hereby approved.

Be It Further Resolved, that this Foundation examine additional charitable organizations with a view to making immediate contributions; and further

That the plan of establishing a school or place for boys or of selecting one institution or cause to be backed by the Foundation be further pursued at this time in view of the earnings of the corporation

in order that a substantial part of the funds may be earmarked for such school, institution or cause and the Foundation thereby become the prime mover in the development thereof.

There being no further business to come before the meeting, on motion duly made and seconded, it was adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President. [78]

Minutes of Meeting of Board of Trustees
of Randall Foundation, Inc.

Held May 30th, 1951, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and, upon the roll being called, all of the Trustees were found to be present.

The president stated that the purpose of the meeting was to pass upon some additional contributions by the Foundation, in view of the fact that the treasury of the Foundation was in good condition to make some immediate distributions, and Mr. Randall was willing, though the Foundation was considerably indebted to him, that such contributions be made.

A discussion followed with respect to making immediate distributions or gifts when the purpose of the Foundation was to build up a sufficient fund to establish some institution wholly or mostly backed by the Randall Foundation, but after such discussion, the following resolution was adopted:

Resolved, that Paul M. Randall, president of this Foundation, be and he is, hereby authorized to make from the treasury of the Foundation, the following gifts to:

Sister Kenny Foundation.....	\$ 100
St. Mary's Hospital, Santa Monica, California	\$1,000
Montecito Schools, Inc., Santa Barbara, California	\$2,000

Be It Further Resolved that this Foundation make a thorough investigation of the intentions of Montecito Schools, Inc., with respect to founding a school for boys, with a view to making additional contributions to said [79] Montecito Schools for such or related purposes.

There being no further business to come before the meeting, the meeting was thereupon, upon motion duly made, seconded and carried, adjourned.

/s/ DOROTHY WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President. [80]

Minutes of Meeting of Board of Directors
of Randall Foundation

Held November 18th, 1951

The meeting was called to order by Paul R. Randall, President, and upon the roll being called, all of the Directors were found to be present.

Paul R. Randall stated to the meeting that it was advisable to fill a vacancy in the Board of Directors caused by the resignation some time ago of James A. Flanagan, and further vacancies which would occur on acceptance of the resignation of Frank Randall, which had been submitted to the meeting.

On nomination being made and seconded and vote being taken, James A. Flanagan was re-elected as a member of the Board of Directors.

The resignation of Frank Randall was then offered to the meeting and upon vote being taken, said resignation was duly accepted.

Thereupon, nominations were opened to fill the vacancy caused by said resignation and upon nomination being made and seconded, the nominations duly closed and vote being duly taken, J. P. Patterson was elected as a member of the Board of Directors.

There being no further business to come before the meeting, the meeting was duly adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL. [81]

Minutes of Meeting of Board of Trustees
of Randall Foundation, Inc.

Held March 1st, 1952, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and upon roll being called, all of the trustees were found to be present.

The president stated that the purpose of the meeting was to consider and discuss charitable or other contributions to be made by the Foundation, with a view to disposing of, by gift, all of the moneys received by the Foundation by way of dividends and interest since the inception of the Foundation, not heretofore granted or given.

A discussion then followed, whereupon, the following resolution was, upon motion duly made, and seconded, passed:

Resolved: That Paul M. Randall, President of this Foundation be, and he is hereby authorized to make gifts from the treasury of the Foundation in a total amount equal to all of the dividends and interest received by the Foundation during the fiscal year, and such amounts of dividends and interest received by the Foundation prior to this fiscal year as have not heretofore been given away. All such gifts shall be made to all or any of the following tax exempt institutions, and the amount recommended with respect to such gifts in each instance is set forth opposite the name thereof, to wit: [82]

All Nations Foundation	\$1,000
American Red Cross	1,000
Bureau of Welfare, California Teachers' Association	1,000
Cate School	1,000
Children's Hospital of Los Angeles	500
David Seabury School of Psychology	2,000
Girl Scouts of South Pasadena	100
Montecito Schools	2,500
St. John's Hospital	1,000
Sister Elizabeth Kenny Foundation	100
Y. M. C. A., South Pasadena	1,000

Be It Further Resolved: That should there be any further interest or dividends received prior to the end of the fiscal year and not disposed of as above recommended, then the President of this corporation is hereby authorized to make gifts of such additional amounts to any or all of the above-mentioned tax-exempt institutions.

Discussion was then had concerning the status of the Foundation as recognized by the Internal Revenue Department, and upon motion duly made, seconded and carried, the following resolution was adopted:

Resolved: That the President of this corporation be and he is hereby authorized and directed to have counsel for the Foundation prepare and file additional petition, or letter, with the Bureau of Internal Revenue, asking for reconsideration of the status of the Foundation, and setting forth as suggested by

Counsel recent decisions in the District Courts and the Court of Claims which appear to be favorable to the contentions of the Foundation.

Be It Further Resolved: That the President take such other steps as he may deem [83] advisable toward accomplishing recognition by the Department of Internal Revenue of the tax-exempt status of this Foundation.

There being no further business to come before the meeting, the meeting was upon motion duly made, seconded and carried, adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President.

/s/ DOROTHY R. WARD,

/s/ F. W. BAILES,

/s/ JAMES A. FLANAGAN,

/s/ J. P. PATTERSON. [84]

Minutes of Meeting of Board of Trustees
of Randall Foundation, Inc.

Held on the 15th day of May, 1952,
at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and upon roll being called, a quorum was found to be present.

The President stated that the purpose of the meeting was to read the financial report for the fiscal year ending April 30, 1952, as prepared by Sidney R. Reed & Company. The financial report was then read, and a discussion had, whereupon, the following resolution, upon motion duly made and seconded, was passed:

Resolved: That the financial report as prepared and presented to the meeting, for the fiscal year ending April 30, 1952, be and the same is hereby approved and each and all of the purchases and sales set forth therein, and each and all of the expenditures set forth therein, and each and all of the contributions set forth therein, are hereby confirmed and approved.

There being no further business to come before the meeting, the meeting was upon motion duly made, seconded and carried, adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President.

/s/ F. W. BAILES,

/s/ JAMES A. FLANAGAN. [85]

Special Meeting of the Board of Trustees
of Randall Foundation, Inc.

Held June 18th, 1952, at the Principal Office
At 2:00 o'Clock P.M.

A special Meeting of the Board of Trustees of Randall Foundation, Inc., was held on the 18th day of June, 1952, at 2:00 o'clock p.m. at the principal office of the Foundation, the County of Los Angeles, State of California.

The meeting was called to order by the President, Paul M. Randall. Upon roll being called, a quorum was found to be present.

Mr. Randall stated to the meeting that the purpose of the special call was to consider a gift in a substantial amount to Cate School in Carpinteria, California. Mr. Randall explained to the meeting the status of the Foundation with respect to the matter of tax exemption and read the recent correspondence with the Internal Revenue Department in Washington regarding same, and told of the recent letter just filed with the Internal Revenue Department seeking reconsideration and favorable action at this time. A discussion was had, and there-

after, upon motion being duly made and seconded and vote being taken, the following resolution was duly passed.

Resolved: That Randall Foundation, Inc., by and through its President, Paul M. Randall, agree by written subscription or otherwise, to give to Cate School, located at Carpinteria, California, the sum of Ten Thousand Dollars (\$10,000.00) on August 16, 1952, provided that and on the condition that on or before August 15, 1952, the Internal Revenue Department has granted to Randall Foundation, Inc., without reservation the tax exemption sought by the Foundation pursuant to its letters and application heretofore filed, and that Randall Foundation, Inc., by such action be [86] recognized as a tax-exempt organization or institution from its inception, and

Be It Further Resolved: That if the condition, or proviso, aforesaid is fulfilled on or before August 15, 1952, that the said Paul M. Randall, President of Randall Foundation, Inc., be and he is hereby authorized to execute and deliver the check of the Foundation in the aforesaid amount to carry out the intent of this resolution, and

Be It Further Resolved: That if Randall Foundation, Inc., does not secure its tax-exempt status on or before August 15, 1952, then this proposed or intended gift shall be of no further force and effect, and this authorization will terminate, and

Be It Further Resolved: That Paul M. Randall be and he is hereby authorized to deliver a copy of

this resolution to Cate School or its representatives to serve as the agreement of this Foundation to give to Cate School the sum of \$10,000.00 provided that **and on the condition** that the tax-exempt status of Randall Foundation, Inc., from its inception has been secured on or before August 15, 1952, this gift not to be made, according to the intent of the resolution, if tax exemption is not secured by such date.

There being no further business to come before the meeting, the meeting was, upon motion duly made, seconded and passed, adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President. [87]

Minutes of Special Meeting of Board of Trustees of Randall Foundation, Inc.

Held August 10th, 1952, at the Principal Office
At 2:00 o'Clock P.M.

The meeting was called to order by the President, Paul M. Randall, and upon roll being called, a quorum of the Trustees was found to be present.

The President stated to the meeting that in view of the fact that the present representatives of the Foundation had been unable through negotiation to secure a tax-exempt status for the Foundation and in view of the fact that litigation appeared neces-

sary, he had retained the firm of Hill & Barnes of Washington, D. C., to represent the Foundation and had paid them a retainer fee in connection therewith. He then explained to the meeting the arrangement with Hill & Barnes and asked that the Board approved their employment. After discussion had and upon motion being duly made and seconded and vote being taken, the following resolution was unanimously passed:

Resolved: That the employment by Paul M. Randall of the firm of Hill & Barnes of Washington, D. C., to represent the Foundation in its effort to secure a tax-exempt status from the Department of Internal Revenue be, and the same is hereby, approved and the arrangements with respect to such representation are hereby approved; and

Be It Further Resolved: That the President of this corporation and such other officers thereof as may be required in connection therewith be, and they are hereby authorized to take any and all steps on behalf of the foundation and execute any and all papers on behalf of the Foundation prepared by or suggested by the aforesaid law firm with respect to [88] securing tax-exempt status for the Foundation, including any and all papers in connection with any litigation advised by said firm.

There being no further business to come before the meeting, said meeting was, upon motion duly made, seconded and carried, adjourned.

/s/ DOROTHY R. WARD,
Secretary. [89]

Regular Meeting of Board of Trustees Held at the Principal Office of the Corporation on the Last Monday in September, To Wit, September 29, 1952, at the Hour of 2:15 P.M.

The meeting was called to order by the President, Paul Randall, and upon the roll being called, four of the five trustees were found to be present, to wit: Paul Randall, Dorothy R. Ward, Frederick W. Bailes and James A. Flanagan.

The President stated that the first order of business was to consider certain amendments to the articles of incorporation in order that said articles might more truly set forth the intent of the corporation with respect to its primary purpose, and to consider other amendments to conform to the intentions of the corporation which would likewise be advisable for the corporation to adopt. After discussion had and upon motion duly made, seconded and the vote being taken, the following resolution was unanimously adopted:

Resolved: That the following amendments to the articles of incorporation of Randall Foundation, Inc., be and the same are hereby adopted:

One: Article II of said articles is hereby amended to read as follows:

II.

That the specific and primary purpose for which said corporation is formed is to establish a home for under-privileged boys, without regard to race,

creed or color. It shall be the purpose of this home to prevent and cure waywardness among boys by providing a wholesome home with facilities for education and the teaching of useful trades or occupations.

Two: Article III of said articles is hereby amended to read as follows:

III.

That in order to carry out the aforesaid purpose the [90] corporation shall have the power and right to engage in those activities permitted by law to a non-profit corporation organized under the laws of the State of California under the title aforesaid and under Section 101 (6) of the United States Internal Revenue Code and as selected from time to time by the Board of Trustees with a view to creating funds and sources of revenue for the creation and maintenance of the aforesaid home.

Three: Article VIII of said articles is hereby amended to read as follows:

VIII.

No member shall have any proprietary interest whatever in or to any of the assets of the corporation, and no income, increments, or other pecuniary gain, benefit, or advantage of any kind, in any way arising from or growing out of the assets of the corporation or their operation will inure to or in any way go to or vest in any member of the corporation.

Four: The following article shall be added to the articles of incorporation and designated as Article IX and shall read as follows:

IX.

Upon the dissolution or winding up of the corporation after paying or adequately providing for the debts and obligations of the corporation, any remaining assets shall be distributed to such religious, educational or charitable organizations as may be selected by the Board of Trustees; however, the Board of Trustees may designate only such organizations as are located in the State of California and which qualify as exempt organizations under the provisions of Section 101 (6) of the United States Internal Revenue Code.

Resolved Further that such number of the incorporators and/or trustees of this corporation as may be required by law to execute, adopt and file a certificate of amendment setting forth the amendments to the articles of incorporation hereinabove adopted take [91] such steps as may be requisite for such purpose and do any and all things required by law to make the amendments hereinabove adopted effective and complete for all purposes of the corporation.

The president then stated that the next order of business was to consider amendments to the bylaws which would be in conformance with the intent and purposes of the Board of Trustees and also conform to the amendments made in the articles of

incorporation. After discussion had and upon motion duly made, seconded, and vote being taken, the following resolution was unanimously passed:

Resolved that the bylaws of Randall Foundation, Inc., be and the same are hereby amended in the following respects, to wit:

One: Subparagraphs (3) and (4) of Article III of the bylaws are hereby amended to read as follows:

(3) To incur indebtedness for purposes of the corporation, the terms and amounts of such indebtedness to be entered upon the usual books of the corporation; to invest the funds of the corporation for the purpose of building up a fund for the erection and maintenance of the home described in Article II of the Amended Articles of Incorporation of this corporation.

(4) To perform all other duties and exercise all other powers permitted by law to be done or exercised by the trustees or members of a non-profit organization organized under Part I of Division 2 of Title I of the Corporation Code of the State of California, and permitted by Section 101 (6) of the United States Internal Revenue Code.

Two: Article VII of the bylaws as it now reads is deleted and said Article VII shall read as follows:

VII.

No member shall have any proprietary interest whatever in or to any of the assets of the corpora-

tion, and no income, increment, or other pecuniary gain, benefit or advantage of any kind, in any way arising from or growing out of the assets of the corporation or their operation will inure to or in any way go to or vest in any member of [92] the corporation.

Three: There shall be added to the bylaws an Article VIII, which said Article VIII shall read as follows:

VIII.

It is intended that in accomplishing the primary purpose of the corporation as set forth in Article II of the articles of incorporation, construction of the home described in said Article II be commenced by December 31, 1957, or that the corporation establish facilities for the actual residence of at least 50 inmates not later than December 31, 1959.

If the corporation fails in the accomplishment of the primary purpose set forth in Article II of the articles of incorporation, then the trustees shall consider appropriate resolutions for dissolution of the corporation after paying or adequately providing for the debts and obligations of the corporation. Any remaining assets shall be distributed to such religious, educational or charitable organizations as may be selected by the Board of Trustees; however, the Board of Trustees may designate only such organizations as are located in the State of California and which qualify as exempt organizations under the provisions of Section 101 (6) of the United States Internal Revenue Code.

In the event that the corporation shall be dissolved in accordance with the provisions of this Article VIII, the trustees shall make distribution to exempt organizations within 12 months of the date of the resolution dissolving the corporation.

Resolved Further that a complete copy of the bylaws as amended be now made and attached to these Minutes and that said bylaws as amended be made a part of the books and records of this corporation.

There being no further business to come before the meeting, [93] the meeting was upon motion duly made and seconded, and vote being taken, adjourned.

/s/ DOROTHY R. WARD,
Secretary.

Approved:

/s/ PAUL RANDALL,
President.

This is to certify that I am the duly elected, qualified and acting secretary of Randall Foundation, Inc., and that a regular meeting of the Board of Trustees of Randall Foundation, Inc., was duly and regularly held on the last Monday in September, to wit, September 29, 1952, at the hour of 2:15 p.m., at the principal office of the corporation, in accordance with the provisions of the bylaws of the corporation with respect to such regular meeting, and that at said meeting there were at all times present and acting a quorum of the Board of

Trustees, to wit, four of the five trustees of said corporation, and that the within Minutes to which this certification is attached are the Minutes of said regular meeting so held, and that at said meeting the resolutions set forth in the within Minutes, including the resolutions specifically amending the articles of incorporation and amending the bylaws of the corporation, were duly and regularly passed.

In Witness Whereof I have hereunto set my hand this 30th day of September, 1952.

/s/ DOROTHY R. WARD,
Secretary. [94]

Minutes of Special Meeting of Board of Trustees
of Randall Foundation, Inc.

Held on the 7th day of April, 1953, at
128 South La Brea Avenue, Los Angeles,
California, at the Hour of 3:00 P.M.

The meeting was called to order by the President, Paul M. Randall, and upon the roll being called a quorum of the Trustees was found to be present.

Mr. Paul M. Randall stated to the meeting that Dorothy R. Ward, Secretary of the Foundation, had asked that her resignation be accepted and that it would, consequently, be necessary for the Board to elect a new Secretary. He also stated that he had received from the law firm of Hill & Barnes in Washington, D. C., certain recommendations with

respect to procedure in connection with securing a tax-exempt status of the Foundation, and such letter will be read to the meeting.

Upon motion duly made and seconded and vote being taken, the resignation of Dorothy R. Ward as secretary was accepted. Upon nomination then being made and the nominations duly closed and vote being taken, J. P. Patterson was duly elected Secretary of the corporation.

The letter of Hill & Barnes was then read to the meeting, and after discussion had, the following resolution was duly adopted:

Resolved, That Whereas, Hill & Barnes have advised that this Foundation not file tax returns for the fiscal years 1950-1951 and 1951-1952 as prepared by the office of Sydney R. Reed, and that the Foundation adopt a procedure as set forth in the letter, hastening the setting of the litigation of the Foundation and the Internal Revenue [95] Department with respect to the tax-exempt status; and

Whereas, Sydney R. Reed has advised that said tax returns be filed and that a procedure be adopted which would postpone the litigation above referred to and would allow certain conferences with the Department prior to any such litigation.

Now, Therefore, be it resolved that the President, Paul M. Randall, secure the opinion of a third tax expert with respect to the procedure to be followed and report back to this Board at its next meeting for final action by the Board.

There being no further business to come before the meeting, the meeting was, upon motion duly made, seconded and carried, adjourned.

/s/ J. P. PATTERSON,
Secretary. [96]

Minutes of Special Meeting of Board of Trustees
of Randall Foundation, Inc.

Held at 922 Citizens National Bank Bldg.
June 16th, 1953

The meeting was called to order by the President, Paul Randall, and upon the roll being called a quorum of the Board was found to be present.

The Chairman stated that the purpose of the meeting was to act upon the resignation of Dorothy R. Ward, who was not present at the meeting but who had submitted her written resignation, and upon motion being duly made and seconded and vote being taken the resignation of Dorothy R. Ward was duly accepted and the resignation ordered attached to the minutes of the meeting.

The president then stated that the meeting was open to nominations to fill the vacancy caused by the resignation of Dorothy R. Ward, and upon nominations being duly made and seconded and the nominations then duly closed and vote being taken, May C. Gifford of Los Angeles, California, was duly elected a member of the Board of Trustees of the Foundation.

J. P. Patterson then presented to the meeting his resignation as secretary, and upon motion being duly made and seconded and vote being taken said resignation was accepted.

The Chairman then stated that the meeting would proceed with the election of a secretary to fill the vacancy created by Mr. Patterson's resignation, and upon motion being duly made and seconded and nominations duly closed and vote being taken May C. Gifford was duly elected the secretary of the Foundation.

There being no further business to come before the meeting, the meeting was upon motion being duly made, seconded and carried, adjourned.

/s/ J. P. PATTERSON,
Secretary.

Approved:

/s/ PAUL M. RANDALL,

/s/ JAMES A. FLANAGAN. [97]

Los Angeles, California,
June . . , 1953.

To: The Board of Trustees, Randall Foundation,
Inc.

Gentlemen:

I hereby tender my resignation as secretary of the Foundation.

Very truly yours,

/s/ J. P. PATTERSON.

[Endorsed]: Filed October 8, 1954. [98]

[Title of District Court and Cause.]

MINUTE ORDER

The judgment will be for the defendant. Counsel will prepare and submit Findings of Fact, Conclusions of Law, and Judgment under the Rules.

Dated: Los Angeles, California, April 6, 1955.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed April 6, 1955. [98-A]

United States District Court for the Southern
District of California, Central Division

No. 16142-PH Civil

RANDALL FOUNDATION, INC.,

Plaintiff,

vs.

ROBERT A. RIDDELL, Director of Internal
Revenue, District of Los Angeles,

Defendant.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND JUDGMENT

This cause came on for hearing on October 11, 1954, before the Hon. Peirson M. Hall, Judge, presiding, without the intervention of a jury. Plaintiff was represented by its counsel, Gibson, Dunn &

Crutcher, through Bert A. Lewis, and the defendant was represented by his counsel, Laughlin E. Waters, United States Attorney, Southern District of California; Edward R. McHale, Assistant United States Attorney, Chief, Tax Division, and Robert H. Wyshak, Assistant United States Attorney. The Court, having heard and considered all the evidence and stipulations of fact, makes the following findings of fact and conclusions of law:

Findings of Fact

I.

This is an action for recovery of corporate income taxes assessed and paid pursuant to the provisions of the 1939 Internal [99] Revenue Code, and jurisdiction is based on Title 28, U.S.C. § 1340.

II.

On May 11, 1950, the plaintiff was organized as a non-profit corporation under the laws of the State of California. Its articles provided that its purpose was the promotion and advancement of charitable, religious and educational projects on a non-profit basis and that no member should have any proprietary interest in the assets or income of the plaintiff. The original Board of Trustees consisted of Paul M. Randall, Frank R. Randall, his son; Dorothy R. Ward, his sister; Frederick W. Bailes, and James A. Flanagan.

III.

The plaintiff's capital consisted of contributions by Paul Randall during its first fiscal year ended

April 30, 1951, of shares of stock with a market value of \$20,752.11 owned by him and in which he had a substantial profit. Some of these were sold by the plaintiff the same day or the day following the contribution. No gain was reported either by the plaintiff or Paul Randall on the disposition of the shares of stock so that the difference between the sale price and the original purchase price by Paul Randall was unreported as taxable income.

IV.

Between June 13, 1950, and April 5, 1951, Paul Randall loaned to the plaintiff a total of \$155,200.00 at an interest rate of $2\frac{1}{2}\%$ per annum. Said monies had been borrowed by Randall from his brokers on his personal margin account with his own securities as collateral. At the time of the first loan, the interest rate at which he was borrowing was only 2% per annum, with subsequent increases to 3%. Said loans were repaid as follows: \$40,000.00 on May 29, 1951; \$30,000.00 on December 27, 1951; and \$85,200.00 on February 4, 1952.

V.

With the proceeds from the sales of the initial contributions [100] and said loans, the plaintiff traded in securities most of which were oil stocks listed on the Los Angeles Stock Exchange. The result was a net profit from securities transactions during its fiscal year ended April 30, 1951, of \$30,238.27. In addition, dividends from these stocks totaled \$10,285.00. These were the plaintiff's only

activities during its first year of existence. In that year 26,908 shares of stock were bought and 23,185 shares of stock were sold. Of these transactions, sales of only 150 shares resulted in long-term gain; the remaining sales were short-term transactions, i.e., where the securities were held for six months or less.

VI.

One week before the close of the first fiscal year a \$500.00 contribution was made to the Children's Hospital Association of Los Angeles. This was a little more than 1% of the plaintiff's gross income for its first year of operation. Its expenses for said year amounted to \$1,532.36. No charitable activity whatsoever was engaged in by the plaintiff during this period except for this one contribution. Shortly after the first fiscal year ended April 30, 1951, plaintiff filed a request with the Internal Revenue Service for a ruling that it was exempt from income tax under § 101 (6) of the 1939 Internal Revenue Code. The Commissioner of Internal Revenue ruled that it was not entitled to exemption as follows:

“It is the opinion of this office that the income received by you has not been devoted to the purposes for which you were incorporated in such a manner and to such an extent as to constitute operations for such purposes within the meaning of section 101 (6) of the Code. Furthermore, your activities are primarily those of an organization engaged in the ordinary business of buying and selling securities. An organization which is operated for the

primary purpose [101] of carrying on a trade or business for profit is not exempt from Federal income tax notwithstanding all of its profits are payable to organizations or purposes specified in section 101 (6) of the Internal Revenue Code.”

VII.

During its second fiscal year the foundation's activities were in large part unchanged from the prior year. Randall contributed to the plaintiff securities with a market value of only \$672.97. No gifts or contributions were at any time solicited from or made by any other person. Profit from security transactions totaled \$50,079.61 and dividends totaled \$7,081.93, for a total gross income of \$58,161.54. Expenses for said year, incurred in large part in order to obtain exemption from income tax, totaled \$8,271.99. Gains were both long and short term and resulted from the sale of 25,996 shares of stock and the purchase of 15,936 shares of stock. \$11,200.00 was contributed to various charities during this second fiscal year. However, almost 75% of it was contributed on the last day of the fiscal year, despite the fact that income was being earned throughout the year. The Board of Trustees felt that these contributions might help secure a tax-exempt status for the plaintiff. No charitable activity was directly carried on by the plaintiff during the second fiscal year.

VIII.

The trading was carried on on behalf of the corporation through two brokerage houses, Akin-

Lambert & Company, Inc., and Harbison & Henderson Company. The same customer's men who had serviced Paul Randall in his individual capacity executed orders from Paul Randall on behalf of the foundation. He had been authorized by the Board of Trustees so to make trades without regard to the nature of the security and without further formal authority from the Board. After Paul Randall started trading on behalf of the foundation, his market activities on his own behalf diminished considerably. [102]

IX.

In the meantime the foundation filed several requests for reconsideration of the ruling with the Internal Revenue Service, which culminated in a ruling dated January 8, 1953, which concluded as follows:

“A review has been made of the evidence which formed the basis of Bureau rulings of September 12, 1951, January 15, 1952, and June 16, 1952, in connection with the information subsequently submitted and the statements made at conferences held with representatives of this office in connection with this matter. It is believed on the basis of the facts and evidence submitted, that your activities have been primarily those of an organization engaged in the ordinary business of buying and selling securities, and that there is no error in the conclusion reached in Bureau rulings of September 12, 1951, January 15, 1952, and June 16, 1952, and they are therefore hereby affirmed.”

X.

The plaintiff then filed its income tax returns for the fiscal years ending April 30, 1951, and April 30, 1952, disclosing a tax liability of \$6,677.13 for the year ended April 30, 1951, and \$14,113.24 for the year ended April 30, 1952. These amounts were paid to the District Director of Internal Revenue at Los Angeles on or about June 10, 1953. Claims for refund therefor were filed with said Director on June 12, 1953. Said claims were not acted upon by the Commissioner of Internal Revenue.

XI.

The plaintiff was not organized or operated exclusively for a charitable purpose during the fiscal years ending April 30, 1951, and April 30, 1952, within the meaning of § 101 (6) of the 1939 [103] Internal Revenue Code.

XII.

The plaintiff was operated during the fiscal years ended April 30, 1951, and April 30, 1952, for the primary purpose of carrying on a trade or business for profit.

XIII.

All of the income realized by the plaintiff during the fiscal years ended April 30, 1951, and April 30, 1952, was derived from the operation of its business of buying and selling securities.

Conclusions of Law

I.

The Court has jurisdiction of the parties and of this controversy.

II.

The plaintiff was not organized or operated exclusively for a charitable purpose during the fiscal years ending April 30, 1951, and April 30, 1952, within the meaning of § 101 (6) of the 1939 Internal Revenue Code.

III.

The plaintiff is not entitled to exemption from federal income taxation with respect to the fiscal years ended April 30, 1951, and April 30, 1952, under either § 101 (6) or § 101 (14) of the 1939 Internal Revenue Code.

IV.

The plaintiff is not exempt from federal income taxation for the fiscal year ended April 30, 1951, under the provisions of § 302 (a) of the Revenue Act of 1950.

V.

The plaintiff is not exempt from federal income taxation for the fiscal year ended April 30, 1952, as it is within § 301 (b) of the Revenue Act of 1950, which was incorporated in the 1939 Internal Revenue [104] Code as an amendment to § 101 (6).

VI.

The rulings of the Commissioner of Internal Revenue that the plaintiff was not entitled to

exemption from taxation for the fiscal years ended April 30, 1951, and April 30, 1952, were not erroneous.

VII.

The plaintiff was operated during the fiscal years ended April 30, 1951, and April 30, 1952, for the primary purpose of carrying on a trade or business for profit.

VIII.

All of the income realized by the plaintiff during the fiscal years ended April 30, 1951, and April 30, 1952, was derived from the operation of its business of speculating by buying and selling securities.

IX.

The defendant is entitled to judgment against the plaintiff dismissing the complaint herein with prejudice, and for his costs.

Judgment

In accordance with the foregoing findings of fact and conclusions of law, it is hereby ordered, adjudged and decreed:

That the plaintiff take nothing by its complaint, that the above-entitled action be dismissed with prejudice, and that the defendant have judgment for and shall recover from plaintiff the amount of defendant's costs, to be taxed by the Clerk of this Court in the sum of \$.....

Dated: This 23rd day of January, 1956.

/s/ PEIRSON M. HALL,
United States District Judge.

Affidavit of Service by Mail attached.

Lodged January 18, 1956.

[Endorsed]: Filed and entered January 23,
1956. [105]

[Title of District Court and Cause.]

NOTICE OF APPEAL

Notice Is Hereby Given that Randall Foundation, Inc., hereby appeals to the United States Court of Appeals for the Ninth Circuit from that certain judgment heretofore and on or about January 23, 1956, entered in the above-entitled action and from the whole of said judgment.

GIBSON, DUNN & CRUTCHER,

By /s/ BERT A. LEWIS,
Attorneys for Plaintiff.

Receipt of copy acknowledged.

[Endorsed]: Filed February 20, 1956. [107]

[Title of District Court and Cause.]

STIPULATION EXTENDING TIME FOR
FILING OF BOND FOR COSTS ON APPEAL

It is hereby stipulated and agreed, by and between the attorneys for the parties hereto, subject to the order of the court, that the time within which Plaintiff-Appellant shall file bond for costs on appeal to the United States Court of Appeals for the Ninth Circuit be extended to and including February 23, 1956.

Dated: February 23, 1956.

GIBSON, DUNN & CRUTCHER,

/s/ BERT A. LEWIS,

Attorneys for Plaintiff-
Appellant.

LAUGHLIN E. WATERS,

United States Attorney;

EDWARD R. McHALE,

Asst. U. S. Attorney, Chief,
Tax Division;

ROBERT H. WYSHAK,

Asst. U. S. Attorney;

/s/ ROBERT H. WYSHAK,

Attorneys for Defendant-
Appellee.

So Ordered: February 23, 1956.

/s/ PEIRSON M. HALL,

United States District Judge.

[Endorsed]: Filed February 23, 1956. [110]

United States District Court for the Southern
District of California, Central Division
No. 16142-PH Civil

RANDALL FOUNDATION, INC.,

Plaintiff,

vs.

ROBERT A. RIDDELL, Director of Internal
Revenue, District of Los Angeles,

Defendant.

CORRECTED FINDINGS OF FACT, CON-
CLUSIONS OF LAW AND JUDGMENT
NUNC PRO TUNC

This cause came on for hearing on October 11, 1954, before the Hon. Peirson M. Hall, Judge, presiding, without the intervention of a jury. Plaintiff was represented by its counsel, Gibson, Dunn & Crutcher, through Bert A. Lewis, and the defendant was represented by his counsel, Laughlin E. Waters. United States Attorney, Southern District of California; Edward R. McHale, Assistant United States Attorney, Chief, Tax Division, and Robert H. Wyshak, Assistant United States Attorney. The Court, having heard and considered all the evidence and stipulations of fact, makes the following findings of fact and conclusions of law:

Findings of Fact

I.

This is an action for recovery of corporate income taxes assessed and paid pursuant to the pro-

visions of the 1939 Internal [111] Revenue Code, and jurisdiction is based on Title 28, U.S.C. § 1340.

II.

On May 11, 1950, the plaintiff was organized as a non-profit corporation under the laws of the State of California. Its articles provided that its purpose was the promotion and advancement of charitable, religious and educational projects on a non-profit basis and that no member should have any proprietary interest in the assets or income of the plaintiff. The original Board of Trustees consisted of Paul M. Randall, Frank R. Randall, his son; Dorothy R. Ward, his sister; Frederick W. Bailes, and James A. Flanagan.

III.

The plaintiff's capital consisted of contributions by Paul Randall during its first fiscal year ended April 30, 1951, of shares of stock with a market value of \$20,752.11 owned by him and in which he had a substantial profit. Some of these were sold by the plaintiff the same day or the day following the contribution. No gain was reported either by the plaintiff or Paul Randall on the disposition of the shares of stock so that the difference between the sale price and the original purchase price by Paul Randall was unreported as taxable income.

IV.

Between June 13, 1950, and April 5, 1951, Paul Randall loaned to the plaintiff a total of \$155,200.00 at an interest rate of 2½% per annum. Said monies

had been borrowed by Randall from his brokers on his personal margin account with his own securities as collateral. At the time of the first loan, the interest rate at which he was borrowing was only 2% per annum, with subsequent increases to 3%. Said loans were repaid as follows: \$40,000.00 on May 29, 1951; \$30,000.00 on December 27, 1951; and \$85,200.00 on February 4, 1952. [112]

V.

With the proceeds from the sales of the initial contributions and said loans, the plaintiff traded in securities most of which were oil stocks listed on the Los Angeles Stock Exchange. The result was a net profit from securities transactions during its fiscal year ended April 30, 1951, of \$30,238.27. In addition, dividends from these stocks totaled \$10,285.00. These were the plaintiff's only activities during its first year of existence. In that year 26,908 shares of stock were bought and 23,185 shares of stock were sold. Of these transactions, sales of only 150 shares resulted in long-term gain; the remaining sales were short-term transactions, i.e., where the securities were held for six months or less. [All sales and purchases of securities were made by Paul Randall on behalf of the plaintiff as a trader and not as a dealer.]

VI.

One week before the close of the first fiscal year a \$500.00 contribution was made to the Children's Hospital Association of Los Angeles. This was a

little more than 1% of the plaintiff's gross income for its first year of operation. Its expenses for said year amounted to \$1,532.36. No charitable activity whatsoever was engaged in by the plaintiff during this period except for this one contribution. Shortly after the first fiscal year ended April 30, 1951, plaintiff filed a request with the Internal Revenue Service for a ruling that it was exempt from income tax under § 101 (6) of the 1939 Internal Revenue Code. The Commissioner of Internal Revenue ruled that it was not entitled to exemption as follows:

“It is the opinion of this office that the income received by you has not been devoted to the purposes for which you were incorporated in such a manner and to such an extent as to constitute operations for [113] such purposes within the meaning of section 101 (6) of the Code. Furthermore, your activities are primarily those of an organization engaged in the ordinary business of buying and selling securities. An organization which is operated for the primary purpose of carrying on a trade or business for profit is not exempt from Federal income tax notwithstanding all of its profits are payable to organizations or purposes specified in section 101 (6) of the Internal Revenue Code.”

VII.

During its second fiscal year the foundation's activities were in large part unchanged from the prior year. Randall contributed to the plaintiff securities

with a market value of only \$672.97. No gifts or contributions were at any time solicited from or made by any other person. Profit from security transactions totaled \$50,079.61 and dividends totaled \$7,081.93, for a total gross income of \$58,161.54. Expenses for said year, incurred in large part in order to obtain exemption from income tax, totaled \$8,271.99. Gains were both long and short term and resulted from the sale of 25,996 shares of stock and the purchase of 15,936 shares of stock. \$11,200.00 was contributed to various charities during this second fiscal year. However, almost 75% of it was contributed on the last day of the fiscal year, despite the fact that income was being earned throughout the year. The Board of Trustees felt that these contributions might help secure a tax-exempt status for the plaintiff. No charitable activity was directly carried on by the plaintiff during the second fiscal year.

VIII.

The trading was carried on on behalf of the corporation through two brokerage houses, Akin-Lambert & Company, Inc., and [114] Harbison & Henderson Company. The same customer's men who had serviced Paul Randall in his individual capacity executed orders from Paul Randall on behalf of the foundation. He had been authorized by the Board of Trustees so to make trades without regard to the nature of the security and without further formal authority from the Board. After Paul Randall started trading on behalf of the foundation, his

market activities on his own behalf diminished considerably.

IX.

In the meantime the foundation filed several requests for reconsideration of the ruling with the Internal Revenue Service, which culminated in a ruling dated January 8, 1953, which concluded as follows:

“A review has been made of the evidence which formed the basis of Bureau rulings of September 12, 1951, January 15, 1952, and June 16, 1952, in connection with the information subsequently submitted and the statements made at conferences held with representatives of this office in connection with this matter. It is believed on the basis of the facts and evidence submitted, that your activities have been primarily those of an organization engaged in the ordinary business of buying and selling securities, and that there is no error in the conclusion reached in Bureau rulings of September 12, 1951, January 15, 1952, and June 16, 1952, and they are therefore hereby affirmed.”

X.

The plaintiff then filed its income tax returns for the fiscal years ending April 30, 1951, and April 30, 1952, disclosing a tax liability of \$6,677.13 for the year ended April 30, 1951, and \$14,113.24 for the year ended April 30, 1952. These amounts [115] were paid to the District Director of Internal Revenue at Los Angeles on or about June 10, 1953.

Claims for refund therefor were filed with said Director on June 12, 1953. Said claims were not acted upon by the Commissioner of Internal Revenue.

XI.

The plaintiff was not organized or operated exclusively for a charitable purpose during the fiscal years ending April 30, 1951, and April 30, 1952, within the meaning of §101(6) of the 1939 Internal Revenue Code.

XII.

The plaintiff was operated during the fiscal years ended April 30, 1951, and April 30, 1952, for the primary purpose of carrying on a trade or business for profit.

XIII.

All of the income realized by the plaintiff during the fiscal years ended April 30, 1951, and April 30, 1952, was derived from the operation of its business of buying and selling securities.

Conclusions of Law

I.

The Court has jurisdiction of the parties and of this controversy.

II.

The plaintiff was not organized or operated exclusively for a charitable purpose during the fiscal years ending April 30, 1951, and April 30, 1952, within the meaning of §101(6) of the 1939 Internal Revenue Code.

III.

The plaintiff is not entitled to exemption from federal income taxation with respect to the fiscal years ended April 30, 1951, and April 30, 1952, under either §101(6) or §101(14) of the 1939 Internal Revenue Code. [116]

IV.

The plaintiff is not exempt from federal income taxation for the fiscal year ended April 30, 1951, under the provisions of §302(a) of the Revenue Act of 1950.

V.

The plaintiff is not exempt from federal income taxation for the fiscal year ended April 30, 1952, as it is within §301(b) of the Revenue Act of 1950, which was incorporated in the 1939 Internal Revenue Code as an amendment to §101(6).

VI.

The rulings of the Commissioner of Internal Revenue that the plaintiff was not entitled to exemption from taxation for the fiscal years ended April 30, 1951, and April 30, 1952, were not erroneous.

VII.

The plaintiff was operated during the fiscal years ended April 30, 1951, and April 30, 1952, for the primary purpose of carrying on a trade or business for profit.

VIII.

All of the income realized by the plaintiff during the fiscal years ended April 30, 1951, and April 30,

1952, was derived from the operation of its business of speculating by buying and selling securities.

IX.

The defendant is entitled to judgment against the plaintiff dismissing the complaint herein with prejudice, and for his costs.

Judgment

In accordance with the foregoing findings of fact and conclusions of law, it is hereby ordered, adjudged and decreed:

That the plaintiff take nothing by its complaint, that the above-entitled action be dismissed with prejudice, and that the [117] defendant have judgment for and shall recover from plaintiff the amount of defendant's costs, to be taxed by the Clerk of this Court in the sum of \$.....

Dated: This 1st day of March, 1956.

/s/ PEIRSON M. HALL,
United States District Judge.

Affidavit of Service by Mail Attached.

Lodged February 28, 1955.

[Endorsed]: Filed and entered March 1, 1956.

In the United States District Court, Southern
District of California, Central Division

No. 16142-PH Civil

RANDALL FOUNDATION, INC.,

Plaintiff,

vs.

ROBERT A. RIDDELL, Director of Internal Revenue,
District of Los Angeles,

Defendant.

Honorable Peirson M. Hall, Judge Presiding.

REPORTER'S TRANSCRIPT OF
PROCEEDINGS

October 11, 1954

Appearances:

For the Plaintiff:

GIBSON, DUNN & CRUTCHER,
634 South Spring Street,
Los Angeles 13, California; by
BERT A. LEWIS, ESQ.

For the Defendant:

LAUGHLIN E. WATERS,
United States Attorney,
Los Angeles 12, California; by
ROBERT WYSHAK,
Assistant United States Attorney.

October 11, 1954—11:45 A.M.

(Other court matters.)

The Court: Randall vs. Riddell.

Mr. Lewis: Your Honor, we are ready with our witnesses. I understand Government counsel has something to say.

The Court: Is the stipulation on file?

Mr. Wyshak: It was filed Friday afternoon, your Honor.

The Court: It has not gotten to the file yet. Do you have an extra copy of it?

Mr. Lewis: I have, your Honor.

(The document referred to was passed to the Court.)

Mr. Wyshak: Your Honor, perhaps I misunderstood you when I spoke to you on the telephone but I have arranged to have the Revenue Agent here at 1:30 o'clock.

The Court: I thought you said your witnesses are here now.

Mr. Wyshak: No, your Honor. Mr. Lewis said he would be agreeable to going on at 2:00 o'clock this afternoon, and I thought I understood you to say you were free this afternoon.

The Court: I will put it over until 2:00 o'clock. In the meantime maybe we can find the court's copy of the stipulation.

Mr. Wyshak: Thank you, your Honor.

(Whereupon, at 12:00 o'clock noon, a recess was taken until 2:00 o'clock p.m. of the same date.) [4*]

October 11, 1954—2:00 P.M.

The Court: Randall vs. Riddell.

Mr. Lewis: Ready, your Honor.

Mr. Wyshak: Ready for the Government.

Mr. Lewis: I understand we now have the stipulation of facts?

The Court: Yes, I have the stipulation of facts and I have glanced at it casually.

Mr. Lewis: I might say that there is one place where it is reversed. We mentioned in the stipulation of facts on page 7 thereof, Paragraph X, the references to Schedules E and F of the complaint. They are transposed, that is, Schedule E gives the data for the year ended April 30, 1951, and Schedule F gives the data for April 30, 1952. The years are just reversed.

The Court: Then I will just change this Schedule F on line 18 and Schedule E on line 21, is that right?

Mr. Lewis: That is right, your Honor.

Your Honor will recall that the issue in this case is whether the Foundation qualified as an organization operated and organized exclusively for charitable purposes. It made such a claim to the Bureau of Internal Revenue, and in a series of rulings the Bureau denied the exemption. Therefore the Randall Foundation paid the tax, filed a claim for [5] refund, no action was taken on the claim for refund, and this action was commenced.

Most of the facts have been stipulated to, your Honor, but I have in Court several of the directors

of the Foundation whom I would like to elicit some testimony from.

The Court: Very well.

The stipulation of facts has been signed, and this is not a stipulation that if witnesses were called they would testify so-and-so, but this is a stipulation that they are facts.

Mr. Wyshak: That is correct, your Honor.

The Court: Very well. The stipulation of facts will be received in evidence.

Mr. Wyshak: There are several objections that we have really to its materiality, your Honor. The two years in question here are the fiscal years ended April 30, 1951, and April 30, 1952. There are several references to events and occurrences happening after the last date, after April 30, 1952.

There were also copies of minutes of directors' meetings and amendments to the articles and bylaws which occurred after April 30, 1952, and we submit, your Honor, that they are irrelevant and immaterial to the determination of whether this corporation was a tax-exempt institution during the fiscal years ended April 30, 1951, and April 30, 1952. [6]

The Court: That is just Paragraph XIV?

Mr. Wyshak: That would start, your Honor, on page 1 of the stipulation. The last two lines refer to that amendment to the articles on October 9, 1952. I submit that that should go out.

I further submit that since there is no issue here as to their being reasonable cause for filing returns late, Paragraph III should go out, since a refund is not claimed as to any penalty that might have been

paid in connection with the late filing of the return.

The Court: I will hear the evidence and make a determination as to the materiality.

Those are the only two paragraphs, that is, page 1, lines 31 and 32, and line 1 of page 2, and all Paragraph III?

Mr. Wyshak: All of Paragraph III, your Honor.

The Court: And all of Paragraph XVII?

Mr. Wyshak: Paragraph XIV, and all of the pages of the stipulation subsequent to page 43.

I believe that is the dividing line as to what took place before and after that date, starting with page 44 to the end of the stipulation.

In addition, pages 16 to 18 of the stipulation, your Honor. That is an amendment to the bylaws which took place after that date.

The Court: Well, you have covered that in your objection [7] to Paragraph XIV, that is, pages 10 to 18 and pages 44 to the end which you say are immaterial.

Mr. Wyshak: That is right, your Honor.

And also a minor matter, at line 8 of page 5——

Mr. Lewis: Of the stipulation?

Mr. Wyshak: Yes. I think we are interested in April 30, 1952, rather than April 30, 1953.

The Court: You object to that?

Mr. Wyshak: Yes.

The Court: Very well. Do you wish to be heard on his motion?

Mr. Lewis: Yes.

Mr. McHale and I worked out the stipulation of

facts and, I might say, that the decision to include all of the minutes and the amendments was his. He wanted to have the entire minutes in there.

I have this point concerning the relevancy or considering any facts subsequent to April 30, 1952. From the attitude of the Government in working on a stipulation of facts I received the impression that the good faith of the organizers of this Foundation might be in question, and I submit that if we are faced here with a question of whether or not they intended to form and operate in good faith a charitable corporation, that this court may look to what happened after April 30, 1952, in order to determine what their intent and what [8] their objectives were during the earlier two years.

As to the objection to the portions of the complaint and stipulation dealing with the reasonable cause, that is perfectly agreeable with me; it is not properly applicable and technically because we have not filed a claim for refund.

The Court: You mean that is Paragraph III?

Mr. Lewis: Paragraph III of the stipulation.

The Court: In other words, that is immaterial?

Mr. Wyshak: Yes.

Mr. Lewis: Yes, that is immaterial.

The Court: That may be stricken as immaterial.

Mr. Wyshak: You will notice an interlineation at line 23 of page 2, two words, "or materiality." That was added after Mr. Lewis signed the stipulation and he has agreed that that change may go in.

The Court: Very well.

Mr. Lewis: Mr. Randall.

PAUL M. RANDALL

called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name in full, please.

The Witness: Paul M. Randall.

The Clerk: And your address?

The Witness: 2050 Fremont Avenue, South Pasadena.

The Court: In connection with the objection to the [9] materiality and relevancy of the other matters, the objection is overruled. It would appear to me that the bona fides of the plaintiff are one of the factors that must be taken into consideration.

Proceed, counsel.

Direct Examination

By Mr. Lewis:

Q. Mr. Randall, will you state your business?

A. I am an investor and analyst.

Q. Do you have funds of your own invested in the market? A. Yes.

Q. For how long have you had a substantial amount of funds of your own invested in the market? A. Well, for the last 10 years.

Q. What has been the result of your investments?

A. Well, we have had very great appreciation.

Q. During the several years prior to 1950, what percentage of your income did you give to various

(Testimony of Paul M. Randall.)

charitable organizations? A. Before when?

Q. Before 1950.

A. About 10 per cent for the previous three or four years.

Q. Mr. Randall, were you instrumental in the organization [10] of the plaintiff foundation?

A. Yes.

Q. Were you the principal cause in its organization? A. Yes, I think I was.

Q. Why did you cause the plaintiff foundation to be formed?

A. Well, I had accumulated all the wealth that I intended to for my own personal use and I thought I should devote any ability that I might have as an investor and analyst to form this Foundation for charitable purposes.

Q. Did you have any specific charitable purpose in mind at the time?

A. I had been thinking for several years about something like Father Flanagan's Boys' Town.

Q. After the Foundation was formed who determined how its fund should be invested?

A. Our board of directors.

Q. And to whom did they give authority to invest the Foundation's funds?

A. They gave that to me.

Q. And pursuant to that authority did you cause the funds of the Foundation to be invested?

A. Yes.

Q. Securities to be bought and sold?

A. Yes. [11]

(Testimony of Paul M. Randall.)

Q. What reports were made to the board of directors of the Foundation concerning the investments? A. You mean at the end of the year?

Q. Both at the end of the year and during.

A. Well, from time to time we in our meetings would discuss what we had been doing.

Q. Were there any informal occasions when you discussed with the board the situation as to the investment of the Foundation's fund and the results that were being obtained? A. Oh, yes.

Q. About how frequently did that occur?

A. Oh, sometimes we would go three or four months without any discussion. Then it might be every month, or maybe twice a month.

Q. Mr. Randall, are you a broker?

A. No.

Q. Do you have any customers of your own at all? A. No.

Q. When securities of the Foundation were sold, to whom would they be sold?

A. They would be sold through a licensed broker on a stock exchange.

Q. Did you know the purchasers of the securities? A. No.

Q. When securities were purchased for the Foundation [12] would you know from whom they were purchased? A. No.

Q. How were they purchased?

A. Through a broker.

Q. It has been stipulated, Mr. Randall, that during the years ended April 30, 1951, and April 30,

(Testimony of Paul M. Randall.)

1952, there were quite a number of transactions involving the investment portfolio of the Foundation. In examining that stipulation you will find that on occasion the Foundation would buy in blocks of 100, maybe several blocks of 100, of the same security within a day or two, and they might sell in the same way. Can you explain why that happened?

A. Well, it probably was because of the thinness of the market. For instance, Universal Consolidated Oil, the market was very thin on that, and it was only a 100 share market with a point spread in between.

The Court: By "thin" you mean?

The Witness: There would be an order to buy, say, 100 at 63, and the next buying order might be a point and a half down, to 61½.

The Court: You mean the difference there was that there was not much margin in the price, that it varied?

The Witness: The size of the bid or offering was small. The size of the bid would be for only 100 shares, and if you had to sell 500, to sell that you could only sell 100 on that [13] particular day.

The Court: Is that what you mean by "thin"?

The Witness: Yes.

Q. (By Mr. Lewis): Why did you choose, if you were buying, say, 500 shares, to buy them in lots of 100 shares each rather than putting in an order for 500 shares at once?

A. Well, there are several reasons for that. You might be trading and an order for 500 shares, if it

(Testimony of Paul M. Randall.)

were shown on the floor of a stock exchange where the market was thin, you might not be able to complete your buying order, and you might just happen to be an opportunist in buying some of these stocks.

The Court: In other words, if you put in an order for 500 shares somebody might think you wanted it pretty bad and might raise the price?

The Witness: Yes, they would raise their bid.

Q. (By Mr. Lewis): What objective did you have in mind in determining what you should buy and what you should sell for the Foundation?

A. Would you repeat that?

Q. What objective did you have in mind in determining when the Foundation bought securities and when it sold them, and what securities it chose to buy and sell? What did you— [14] what did you have in mind in decisions in that respect?

A. Our main objective in buying securities was for appreciation.

Q. Did you have any other objective in mind in connection with the handling of the funds of the Foundation?

A. Well, to accumulate a fund large enough to do something worth while.

Q. This stipulation of fact also reveals, Mr. Randall, that during the early days of the Foundation's existence you loaned a total of \$155,000 to the Foundation. How did it happen that those loans were made?

A. Well, there appeared to be an opportunity to

(Testimony of Paul M. Randall.)

accumulate this Universal Consolidated Oil, and the Foundation did not have enough of its own funds so in order to make this profit I made this loan to the Foundation.

Q. The stipulation also shows that the Foundation paid you $2\frac{1}{2}$ per cent annual interest on your loans to the Foundation. How was that interest rate set?

A. Well, the call rate had fluctuated from $3\frac{1}{4}$ down to 2 per cent, I think, at the time that this loan was made, and I anticipated the average cost to me would be about $2\frac{1}{2}$ per cent over an extended period, maybe a year or two or three years. So we arbitrarily set that rate of $2\frac{1}{2}$ per cent.

Q. What compensation, if any, did you ever receive from the Foundation for your services to [15] it?

A. None.

Q. Any compensation directly or indirectly from the Foundation?

A. No.

Q. What benefit, if any, did you receive personally from your dealings with the Foundation?

A. Just the satisfaction of being successful in our operation.

Q. The stipulation also shows, Mr. Randall, that during the first year of the Foundation's existence you gave securities of an approximate value of \$20,000 to the Foundation, whereas your gifts to the Foundation the second year totaled in value less than \$1,000. Why did your gifts decline that second year?

A. Because we were having trouble securing our

(Testimony of Paul M. Randall.)

exemption from the Revenue Service, and because of the possible delay we didn't want to make any more donations until it had been cleared up.

The Court: Who were the original directors of this corporation—this is a California corporation?

The Witness: Yes.

Dr. Bailes, Mr. Flanagan, my son and my sister, Dorothy Ward.

The Court: Who is Dr. Bailes?

The Witness: Dr. Bailes— [16]

Mr. Lewis: Your Honor, we have both Dr. Bailes and Mr. Flanagan here.

The Court: Are they any relation to you?

The Witness: No, sir.

The Court: And Mr. Flanagan?

The Witness: He was my attorney.

The Court: He is not related to you?

The Witness: No.

The Court: And then your son?

The Witness: Yes.

The Court: And your sister?

The Witness: Yes.

The Court: Have they remained as directors?

The Witness: No, they resigned. My son went in the service and resigned. My sister resigned also.

The Court: And that leaves the three of you, the original three?

The Witness: No, we have two new directors, a Mrs. May Gifford and a Mr. James Patterson.

The Court: And the original three?

The Witness: And the original three.

The Court: You, Dr. Bailes and Mr. Flanagan?

(Testimony of Paul M. Randall.)

The Witness: Yes.

The Court: Are these other two people related to you in any way? [17]

The Witness: No.

The Court: Very well.

Q. (By Mr. Lewis): Mr. Randall, the stipulation of facts shows that during the fiscal year ended April 30, 1951, the total expenses of the Foundation was \$1,532.36. Do you have any recollection of what those expenses would be comprised of?

A. Well, I believe a part of it was interest and part of it was attorney's fees and part of it was accounting fees.

Q. Now the stipulation shows that during the second year those expenses increased from \$1,532.36 to \$8,271.99. The stipulation also shows that of that later figure, \$8,271.99, that \$3,639.45 consisted of interest which the Foundation paid on its loans?

A. Yes.

Q. Do you know what the other part of those expenses for the second year consisted of?

A. They were attorney's fees and accounting fees.

Q. And why were they substantially larger than they were the first year?

A. Well, so much work was being done on research and matters affecting the tax status of the Foundation.

Q. Will you tell the court what you have done on behalf of the Foundation with relation to its purpose of ultimately forming or having a part in

(Testimony of Paul M. Randall.)

a boys' home to which you [18] referred a moment ago?

Mr. Wyshak: I object to that as vague and indefinite.

Mr. Lewis: I will strike the question.

Q. You previously testified that one of the specific objections you had in mind when the Foundation was formed was the establishment of a boys' town similar to that of Father Flanagan in Nebraska. Can you state what steps, if any, the Foundation has taken in that direction?

Mr. Wyshak: I object to that also as vague and indefinite, without regard to when this objective was sought to be attained.

The Court: He cannot ask everything at once. He is asking what they did. I suppose his next question will be, when did you do it.

Q. (By Mr. Lewis): I think, Mr. Randall, it might be of assistance if you would try to state in chronological order the steps that have been taken, stating the first one first.

A. Well, during the first year we looked at various properties that might have been logically used for a boys' home. Property was looked at in Santa Barbara, or just outside of Santa Barbara. We looked at some property in Antelope Valley.

The second year we continued to look at various properties. [19]

Q. Do you recall the location of any properties you looked at during the second year?

A. We looked at a property in the San Fer-

(Testimony of Paul M. Randall.)

nando Valley that involved the expenditure of a lot of money if we had taken it on. We decided not to take it on.

Q. Subsequent to the second year did you look at any other property?

A. You mean the third year?

Q. Subsequent to April 30, 1952.

Mr. Wyshak: Your Honor, may we have a continuing objection on the basis of incompetence and irrelevance?

The Court: Yes. Overruled.

The Witness: We looked at various properties during the second year.

The Court: He means subsequent to that.

Q. (By Mr. Lewis): Subsequent to April 30, 1952.

A. Yes, I hired a Mr. Ramsdell to investigate some properties for me.

Q. Did you visit those properties with Mr. Ramsdell? A. Yes.

Q. Where were they located?

A. One was at Hot Springs down in San Diego County.

The Court: Did you buy any property?

The Witness: No, we never bought any property due to the [20] uncertainty of our tax status.

Q. (By Mr. Lewis): Has the Foundation ever made any detailed investigation of how the Father Flanagan Home operates? A. Yes.

Q. What was done in that connection?

(Testimony of Paul M. Randall.)

A. Mr. Ramsdell and myself went back to not only look at this Flanagan Boys' Home but he drew up a report covering our trip.

Q. Who is Mr. Ramsdell?

A. Mr. Ramsdell is an attorney who was formerly employed by the Los Angeles City Schools as a—I think he had something to do with delinquent children.

Mr. Lewis: I have no further questions.

The Court: Cross-examine.

We might take a short recess. I have a phone call to make.

(Short recess.)

The Court: Proceed.

Cross-Examination

By Mr. Wyshak:

Q. During the years in question, Mr. Randall, where was your Universal Consolidated Oil listed, it at all?

A. In Los Angeles and San Francisco and New York.

The Court: On the New York Stock Exchange or the [21] so-called—what did they call it, the American?

The Witness: It is the American Exchange, formerly the Curb Exchange.

Q. (By Mr. Wyshak): It was listed on the American, the Los Angeles and San Francisco Ex-

(Testimony of Paul M. Randall.)

changes? A. That is right.

Q. Do you know what a specialist is, Mr. Randall?
A. Yes.

Q. Is it not true that every stock that is listed on an exchange has a specialist in that stock?

A. Yes.

Q. How would you define the duties of a specialist?

A. Well, his duty is to attempt to keep an orderly market in a stock, but in many cases they are not able to do so.

Q. In other words, stabilize the market so that when there is a wide range between the bid and the ask, to narrow it?
A. That is right.

Q. Do you know if there was a specialist in Universal Consolidated Oil in the years in question?

A. I am sure there was.

Q. Yet you took it upon yourself to be a specialist and stabilize the market in that stock? [22]

A. No, I don't believe I attempted to do anything like that. I just attempted to accumulate when it was advantageous for us to do so, and sell when I thought it was advantageous to do so.

Q. In other words, in those cases where you bought this stock on one day and two days later sold it, it was usually at a small profit, was it not?

A. Yes.

Q. In other words, you wouldn't sell it at a loss merely to stabilize the market?
A. No.

Q. Did anyone else or has anyone else contributed any money or property to this Foundation

(Testimony of Paul M. Randall.)

since its formation? A. No.

Q. Do you recall the names of the companies whose securities you gave to the Foundation at its formation? Just generally can you recall most of them? A. I think so.

Q. At the time they were contributed to the Foundation, did you have a profit on those stocks?

A. Yes.

Q. On all of them? A. I believe I did.

Q. Would you call it a substantial profit?

A. Yes. I believe it was. [23]

Q. And what did the Foundation do with those securities after you contributed them to it?

A. I believe in almost every case they sold them.

Q. How soon after the contribution to the Foundation?

A. In almost every instance I believe it was immediately.

Q. Immediately? A. Yes.

Q. The same day or the next day?

A. Yes.

Q. Has the corporation paid a tax resulting from the sale of those securities?

A. Well, it has filed a return for the first two years, I believe.

Q. But was any tax paid as the result of the sale of those particular securities that were contributed to the Foundation?

The Court: We have not established that there was any profit made.

(Testimony of Paul M. Randall.)

The Witness: What kind of tax do you mean?

Q. (By Mr. Wyshak): Was there any profit made on the sale of those securities?

The Court: Was there any gain, you mean? [24]

Q. (By Mr. Wyshak): Which would be taxable. A. No, I don't believe there was.

The Court: Was there any gain at all?

The Witness: To the Foundation?

The Court: Yes.

The Witness: If the Foundation received the stocks one day and sold them the next, I mean what would be their base?

Q. (By Mr. Wyshak): Do you know if any gain was reported and any tax paid on that gain?

A. I don't believe there was.

The Court: By the corporation?

Mr. Wyshak: By the corporation.

The Witness: I don't believe there was, no.

The Court: That is the answer to both of his questions, that there was no gain and no gain reported and no tax paid.

The Witness: Yes.

Mr. Wyshak: I believe the stipulation shows, Your Honor, that the first loan to the Foundation by Mr. Randall was in the sum of \$40,000.

The Court: The first what?

Mr. Wyshak: The first loan by Mr. Randall was \$40,000. That is at page 4, line 29, of the stipulation. It was in the amount of \$40,000 on May 29, 1951. [25]

(Testimony of Paul M. Randall.)

Q. What was the source of that loan, Mr. Randall?

A. You mean where did I get the \$40,000?

Q. That is right.

A. I borrowed that from my broker.

Mr. Lewis: May I interrupt? I think your date is wrong.

Mr. Wyshak: May 29—no, that is the repayment. It is June 13, 1951. I am sorry, Your Honor.

Q. Is that broker Akin-Lambert Company?

A. Yes.

Mr. Wyshak: May I have this marked for identification?

The Court: That was a cash loan?

The Witness: Yes.

Mr. Wyshak: Well, presumably they gave it to him in check form.

The Court: A check is cash.

The Clerk: Defendant's A for Identification.

(The document referred to was marked Defendant's Exhibit A for Identification.)

Q. (By Mr. Wyshak): Do you recognize this June 19, 1950, statement from Akin-Lambert in the name of Paul M. Randall? A. Yes.

Q. Would you say that this item showing a debit in the amount of \$40,000 on June 13, 1950, was the sum which was [26] loaned to the Foundation?

A. It looks like it.

Q. And what was the interest rate that was being paid on that sum that was loaned?

(Testimony of Paul M. Randall.)

A. 2 per cent.

Q. And what was the interest rate which the Foundation paid you as a result of this loan?

A. The interest that the Foundation eventually paid me was $2\frac{1}{2}$ per cent.

Mr. Wyshak: May I have this placed in evidence?

The Court: Defendant's A in evidence.

(The document referred to was marked Defendant's Exhibit A and received in evidence.)

PAUL W RANDALL
2050 FREMONT AVE
SOUTH PASADENA CALIF

IN ACCOUNT WITH
AKIN - LAMBERT CO. INC.
939 SOUTH SPRING STREET
LOS ANGELES 14, CALIF.
VANDER 1071

A

QUANTITY PURCH OR SALES	DESCRIPTION	EXPLANATION	PRICE	DEBITS	CREDITS	BALANCE
						FORWARD
0000						152,028.69
00	BANDINI PETE					
00	BARDHART & MORROW CONS					
00	BADIN OIL					
00	BISHOP OIL CO					
00	CALAVERAS CEMENT COMM					
00	HANCOCK OIL A					
00	OCEANIC OIL					
00	SIGNAL OIL & GAS A					
00	SIGNAL OIL & GAS B					
00	UNIVERSAL CONS OIL					
	DIV 600 HANCOCK OIL A		JV		✓450.00-	151,578.69
	DR CK			40,000.00		191,578.69
	DIV 2200 SIGNAL OIL & GAS A		JV		✓550.00-	
	DIV 173 SIGNAL OIL & GAS B		JV		✓43.25-	190,985.44
300.	CALAVERAS CEMENT COMM		18 50		5,477.13 ✓	185,508.31
	DIV 1500 BISHOP OIL		JV		✓37.50-	185,470.81
	INTEREST 2%			285.65		185,756.46
	HANCOCK OIL		JV		✓600.00-	185,156.46
	DIV 600 HANCOCK OIL		JV			

E. & O. K.

IMPORTANT—Save for Income Tax Purposes

These statements constitute a complete record of your transactions. It is very important that you have them at the end of the year for income tax purposes. We are always ready to answer special questions, but it would be obviously impossible to make transcripts of accounts at the end of the year.

PLEASE EXAMINE AND RETURN IMMEDIATELY IF NOT CORRECT

PAUL W RANDALL
3050 FREMONT AVE
SOUTH PASADENA CALIF

IN ACCOUNT WITH
AKIN - LAMBERT CO., INC.
528 SOUTH SPRING STREET
LOS ANGELES 14, CALIF.
VANUKE 1071

QUANTITY		DESCRIPTION	EXPLANATION	PRICE	DEBITS	CREDITS	BALANCE
AMOUNT OR RECEIVED	SOLD OR DELIVERED						
LONG						BALANCE FORWARD	152,025.69
	4000	BANDINI PETE					
1500	400	BARNHART & MORROW CONS					
300	3,900	BASIN OIL					
1000	20,800	BISHOP OIL CO					
400	1,800	CALAVERAS CEMENT COMM					
800	72,000	HANCOCK OIL A					
700	1,500	OCEANIC OIL					
2400	132,000	SIGNAL OIL & GAS A					
183	10,000	SIGNAL OIL & GAS B					
2800	122,600	UNIVERSAL CONS OIL					
	1,379,200						
	119,600						
	158,000						
	37,600						

Case No. 16147 PH
Randall vs Riddell
Lefts EXHIBIT A
Date Oct 11 1954 No. A IDENTIFICATION
Det Oct 11 1954 No. A IN EVIDENCE
Clk W. S. District Court, Sou. Dist. of Calif.
[Signature] Deputy Clerk

E. & O. E.

IMPORTANT—Save for Income Tax Purposes

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The main body of the page contains very faint, illegible text or a drawing. It appears to be a large-scale sketch or a very faded document. There are some horizontal lines and shapes that could be text or parts of a drawing, but they are not discernible.

(Testimony of Paul M. Randall.)

Q. (By Mr. Wyshak): And this loan was not repaid to you until May 29, 1951?

A. I believe that was the time.

Q. And you received interest at the rate of 2½ per cent all during that time from the Foundation?

A. Yes.

The Court: There are a lot of penciled figures on this exhibit.

Mr. Wyshak: I don't know whose they are. They might be Mr. Randall's, they might be somebody else's.

Mr. Lewis: I am sorry, I don't know, Your Honor. [27]

The Court: I will disregard them.

Mr. Lewis: Yes.

Mr. Wyshak: Very well.

Q. Who were the brokers through whom orders were executed on behalf of the Foundation?

A. Akin-Lambert and Harbison & Henderson.

Q. Did you use those same two brokers on your personal account? A. Yes, I did.

Q. Did you use the same customer's man in those firms for the Foundation's account as your own personal account? A. Yes.

Q. At the time the Foundation was organized and shortly thereafter, did you intend to build a boys' home with the capital that was available to the Foundation?

A. That was one of the outstanding things that I wanted to do, and still do.

(Testimony of Paul M. Randall.)

Q. You didn't feel during that first year that you had sufficient capital to set up the boys' home, did you?

A. No, sir. It was my objective to build up a fund large enough so that we could be secure in perpetuating it when we actually did start it.

Q. What did you consider a sufficient fund at that time?

A. We felt that a quarter of a million dollars would be enough possibly to get started. [28]

Q. Approximately what was the market value of the date of contribution of those shares of stock which were contributed to the Foundation by you during 1951 and '52?

Mr. Lewis: Your Honor please, those facts are all stipulated to.

The Court: Yes, they are stipulated to.

Q. (By Mr. Wyshak): Were notes ever executed to you by the Foundation? A. Yes.

Q. Do you have those notes with you?

A. No.

Q. How many notes were issued, do you have any idea?

A. There were eight or nine or ten. I have the records at home on it. I don't remember.

The Court: Do you have the notes?

The Witness: No. When the notes were paid. I believe shortly after they were destroyed.

The Court: Did you execute notes to the brokerage houses from whom you borrowed the money or borrowed on your margin account?

(Testimony of Paul M. Randall.)

The Witness: I borrowed on my margin account.

Q. (By Mr. Wyshak): Margin accounts were opened in both of these broker's houses on behalf of the Foundation, were they not?

A. Yes. [29]

Q. Were the securities that were purchased and sold on behalf of the corporation comparable to the securities that were purchased and sold at the respective periods by yourself?

A. Will you say that again, please?

Q. Were the stocks that were bought and sold on behalf of the Foundation the same stocks that you were buying and selling on your own account?

A. Yes.

Q. After the Foundation was organized, did you do any less trading in your own account than you had before the corporation was organized?

A. Yes, I believe I did a lot less business on my own account after the Foundation was organized.

Q. In other words, most of your activity was directed to trading on behalf of the Foundation?

A. Yes.

Q. Did you ever put up any collateral for the Foundation on its margin accounts with either of those two houses?

A. Yes, I believe there is one time that we did put up some Universal Consolidated Oil as margin for the Foundation's account.

Q. Were transfer taxes paid on the putting up of the collateral on the Foundation's account?

A. I don't know. [30]

(Testimony of Paul M. Randall.)

Q. At the time you contributed the shares of stock which were set forth in the stipulation to the foundation originally were transfer taxes paid on those transfers?

A. I wouldn't know about that, either.

Q. Well, in whose name were the shares of stock which you contributed to the Foundation?

A. They were in my name.

Q. A loan? A. I believe so.

Q. In whose name were they sold?

A. In the name of the Foundation.

Q. But you don't know if transfer taxes were paid on the transfer from you to the Foundation?

A. No. I believe that is always left up to the broker. If he thinks there is a tax due, I think he pays it.

Q. Would you describe most of the oil securities in which trading took place on behalf of the Foundation as speculative securities?

A. Some of them were. You might consider some of them were quite speculative.

Q. Your aim then was to build up the capital of the Foundation by speculating in these securities, thereby securing the profit to build up a quarter of a million dollars capital with which to build a boys' home, is that correct?

A. Well, I mean it is hard to describe, or it is hard [31] to draw a distinction between a speculative stock and—

The Court: He is now asking you if your pur-

(Testimony of Paul M. Randall.)

pose was to build up a capital of \$250,000 with which to build a boys' home.

The Witness: Yes, that is right.

Q. (By Mr. Wyshak): And you wanted to do that with approximately \$20,000 capital?

A. Well, I loaned the Foundation \$150,000 in addition to my contributions.

Q. But you fully expected to get that back, didn't you? A. My loan, yes.

Q. So that the only capital of the Foundation was the \$21,000 that was contributed by you?

A. That is right.

Q. No tax was ever paid on the profit that existed from the time you bought those securities which you contributed to the Foundation and which were sold by the Foundation?

The Court: That is covered by the stipulation, counsel.

Mr. Wyshak: I don't believe it is, your Honor.

The Court: The stipulation says that they filed a return and paid the tax.

Mr. Wyshak: I am talking about that particular group of stocks which he contributed to the Foundation and which [32] the Foundation sold the next day or the same day he contributed it.

The Court: That has been asked and answered.

Mr. Wyshak: I am saying that no tax was paid by him or the Foundation. I believe we only covered the Foundation.

Mr. Lewis: Your Honor, as I remember the answer to the question, the witness didn't know.

(Testimony of Paul M. Randall.)

I am perfectly willing to have him ask if he paid any tax on the appreciation of the securities between what he paid for them and what they were worth when he gave them to the Foundation.

The Court: Between the time he got them and the time he gave them to the Foundation?

Mr. Lewis: Yes. I don't think that question has been answered.

The Court: Very well.

Q. (By Mr. Wyshak): Between the time you bought those stocks and they were sold by the Foundation, was any tax paid by you on the profit?

A. No.

Q. Was any tax paid by the Foundation on that profit?

Mr. Lewis: I think the witness has previously answered that question. He said he didn't know.

The Court: He said there was no gain and no return. [33] They were given to them one day and sold by the Foundation the next.

Who made the determination for the gifts which are set out in the stipulation totaling \$11,600, \$3,600 of which were in '51 and \$10,100 in '52? Who made the determination as to who should be the recipient of these sums?

The Witness: I did.

The Court: Did you or the board of trustees? Did you consult with them?

The Witness: Yes, they knew about it. I discussed in advance that I was going to do that.

The Court: And did they approve it?

(Testimony of Paul M. Randall.)

The Witness: Yes.

The Court: Are there any minutes here as to that?

Mr. Lewis: Oh, yes, your Honor. There are adequate minutes.

The Court: Very well. Go ahead, counsel.

Q. (By Mr. Wyshak): If you intended to accumulate a quarter of a million dollars for a boys' home, why did you bother giving any charity any sum of money?

A. Well, we discussed it with the board of directors and they decided that it would probably be good if we did.

Q. They didn't feel that it might help you get a tax-exempt status for this Foundation? [34]

A. That might have had something to do with it.

Q. There is in the bylaws or in the articles nothing preventing a gift of any profit realized from security transactions to one of these charities, is there? A. Will you say that again?

Q. There is nothing in the articles or bylaws preventing a gift of part of the profit from security transactions to one of the charities to which money was given?

A. No. That is left to the discretion of the board of directors, I believe.

Q. Was any charitable activity other than those gifts that are set forth in the stipulation pursued during the fiscal years ended April 30, 1951, and April 30, 1952?

A. By the Foundation—I don't believe so.

(Testimony of Paul M. Randall.)

Q. By the Foundation?

A. I don't believe so.

Mr. Wyshak: That is all.

The Court: Redirect?

Mr. Lewis: Yes, your Honor.

Redirect Examination

By Mr. Lewis:

Q. Mr. Randall, you mentioned that some of the securities which the Foundation purchased might be considered speculative. What securities did you have in mind as falling in that category? [35]

A. Well, maybe Universal Consolidated Oil or maybe Bishop.

Q. In what sense were they speculative?

A. Well, it is very hard to draw a line between a speculative stock and an investment stock.

Q. Will you tell the court what you mean by speculative in respect to those two securities?

A. I expected that there would be a great appreciation in the price within several years.

The Court: Was there a difference between buying a stock that is speculative or—let me put it this way—can a stock still be safe and be speculative?

The Witness: Yes.

The Court: As, for instance, an oil stock?

The Witness: Yes.

The Court: In other words, if you know of some possible venture into a new field that the company is drilling, their stock would be a safe buy in your

(Testimony of Paul M. Randall.)

opinion, but at the time it would be speculative because it might go up?

The Witness: That is right.

The Court: For instance, if they hit it as Richfield did in Cuyama?

The Witness: That is right.

Q. (By Mr. Lewis): Is that what you mean by describing those stocks [36] as speculative?

A. That is right.

Q. Mr. Randall, under the stipulation it appears that during the first year of the Foundation you gave it securities of approximately the market value of \$20,000, and during the subsequent year you gave it less than \$1,000.

When you formed the Foundation what was your intention as to the amount of your annual gifts to it?

Mr. Wyshak: I object to that question as hearsay and immaterial.

Mr. Lewis: Your Honor, it has a direct bearing on the question put by counsel as to how he expected to raise the money for the boys' home.

The Court: Overruled.

The Witness: I intended to contribute at least 10 per cent of my income to my own Foundation along with another 10 per cent to other charities.

Q. (By Mr. Lewis): Why didn't you give that much the second year?

A. Because of the uncertainty of our tax status.

Mr. Wyshak: I move to strike those answers on the ground that he didn't—

(Testimony of Paul M. Randall.)

The Court: I think it is self-serving, but I think it is proper redirect because on your cross you went into his state of mind at the time he organized and what he intended [37] to do and how he hoped to do it. The motion to strike is denied.

Mr. Lewis: That is all.

Mr. Wyshak: Just one question.

Recross-Examination

By Mr. Wyshak:

Q. I believe one of the first questions that Mr. Lewis asked you was what your occupation was, and you said investor and something else?

The Court: Analyst.

Q. (By Mr. Wyshak): And analyst. Do you consider yourself a trader?

A. Well, no, I don't believe so. I am more of an investor. I work on special situations.

Mr. Wyshak: May I have this 1950 Federal income tax return marked for identification?

The Court: That is the witness' personal return?

Mr. Wyshak: His personal 1950 Federal income tax return.

The Clerk: It will be Exhibit B.

(The tax return referred to was marked Defendant's Exhibit B for identification.)

Q. (By Mr. Wyshak): Do you recognize your signature, Mr. Randall, on this Form 1040 for the year 1950? A. Yes. [38]

(Testimony of Paul M. Randall.)

Q. And what is your occupation as there set forth?

A. It is stated there as trader and investor. And if I can qualify that answer about not being a trader, that is something that is rather hard to define, too. You may be an investor in special situations and——

Q. But at that time you did consider yourself a trader?

A. Well, you might say so. But it is, as I say, hard to make a distinction.

Q. Have you ever heard yourself described by any broker as a good trader? A. No.

Mr. Wyshak: That is all.

The Court: Step down.

(Witness excused.)

The Court: Next witness.

Mr. Lewis: Dr. Bailes.

FREDERICK BAILES

called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name in full, please.

The Witness: Frederick Bailes, B-a-i-l-e-s.

The Clerk: And your address?

The Witness: 846 South Sycamore Avenue, Los Angeles. [39]

(Testimony of Frederick Bailes.)

Direct Examination

By Mr. Lewis:

Q. Dr. Bailes, what is your profession?

A. I am a minister of a religion.

Q. What is your church?

A. Science of Mind Church.

Q. Are you presently a minister of that church?

A. Yes.

Q. For how long have you been minister?

A. Seventeen years.

Q. How many members do you now have in your congregation?

A. About a month ago it was touching 2,000.

Q. How long have you known the preceding witness, Mr. Randall?

A. Probably since about 1940, into 14 years.

Q. What has been the nature of your relationship during that time?

A. Well, I have gone under his guidance very largely in the use of my own money.

Q. In investing your money?

A. Investing my own money.

Q. What have you found the results of his advice are?

A. Very excellent as far as I am concerned.

Q. Did he ask you to serve as a director on the Randall [40] Foundation when it was organized?

A. Yes.

Q. And have you been a director of that Foun-

(Testimony of Frederick Bailes.)

dation ever since? A. Yes.

Q. When he asked you to serve on it, why did you consent to serve as a director?

A. Well, we had talked many times in the years preceding its foundation and he had been telling of his desire to really do something for other people, and we discussed various types of organizations, and when he said he was going to set up this Foundation now, that he was about getting into position to be able to do it, I thought it would be an excellent thing because of the purpose he had in taking young fellows that probably hadn't had a chance and surrounding them with the proper environment.

Q. Did he mention that purpose to you at the time he discussed your being a director?

A. Yes.

Q. Since you have been a director who has determined how the funds of the Foundation should be directed? A. The board.

Q. And to whom have you delegated that authority? A. To Mr. Randall.

Q. And it is stipulated here that during the [41] first year and a half of the Foundation's existence Mr. Randall loaned considerable funds of his personal funds to the Foundation. Do you have knowledge of those loans? A. Yes.

Q. By what authority did the Foundation pay Mr. Randall interest on those loans?

A. Well, discussions resulting in authorization of him to make the loan at a particular rate.

(Testimony of Frederick Bailes.)

Mr. Wyshak: Your Honor, this is all in the minutes.

Mr. Lewis: Very well.

Q. During the time that you have been a director, how frequently have you discussed the Foundation's affairs with Mr. Randall?

A. Well, at the stated meetings, but then at a great many other meetings, what you might call informal meetings.

Q. And what was discussed on those occasions?

A. Practically everything that was going on in the corporation as well as the plans, future plans. Also I drove out with Mr. Randall to look at properties from time to time.

Q. Do you know whether audited reports of the Foundation's condition were made each year?

A. Yes.

Q. Did you receive a copy of that auditing report? A. Yes.

Q. Do you recall ever having discussed with the board [42] the advisability of the Foundation making gifts to various charities? A. Yes.

Q. Were designations made at that time concerning gifts? A. Yes.

Mr. Lewis: I have no further questions.

The Court: Cross-examine.

Cross-Examination

By Mr. Wyshak:

Q. You didn't contribute any funds to the Foundation, Dr. Bailes? A. No, sir.

(Testimony of Frederick Bailes.)

Q. Were funds solicited by or from others by any of the other directors?

A. No, not up until this date.

Mr. Wyshak: No more questions.

The Court: Step down.

(Witness excused.)

The Court: Next witness.

Mr. Lewis: Mr. Flanagan.

JAMES A. FLANAGAN

called as a witness by and on behalf of the plaintiff, having been first duly sworn, was examined and testified as follows:

The Clerk: Will you state your name in full, please? [43]

The Witness: James A. Flanagan.

The Clerk: Will you spell your last name?

The Witness: F-l-a-n-a-g-a-n.

The Clerk: And your address?

The Witness: 153 South Camden, Beverly Hills.

Direct Examination

By Mr. Lewis:

Q. Mr. Flanagan, what is your business?

A. I am an attorney.

Q. How long have you been a member of the California bar? A. Approximately 25 years.

Q. How long have you known Mr. Randall?

A. About seven or eight years.

Q. Were you his attorney in the spring of 1950?

(Testimony of James A. Flanagan.)

A. Yes.

Q. In that capacity did he consult you concerning the formation of the Randall Foundation?

A. He did.

Q. Did you draw articles of incorporation for that Foundation? A. Yes.

Q. Do you recall at that time discussing whether or not the charitable objectives of the Foundation should be specifically set forth in those articles? [44]

A. Well, he told me——

Mr. Wyshak: Just a moment. I object to that. He can answer yes or no.

The Court: I think it can be answered yes or no.

The Witness: Yes.

Q. (By Mr. Lewis): Will you explain what happened on that occasion?

A. Well, Mr. Randall told me that he wanted to eventually create a foundation similar to Boys' Town in Nebraska, and that it might take a little while before enough funds were accumulated for that purpose, but that was what he primarily wanted to accomplish, and when we came to draw up the articles I stated in general terms "charitable purposes," and Mr. Randall asked me something about stating a primary term, and I told him I didn't feel it was necessary under the California law at that time.

Q. Were you a director for a good part of the life of this Foundation? A. Yes, I was.

Q. Do you recall——

The Court: Are you now?

(Testimony of James A. Flanagan.)

The Witness: I am now.

The Court: In other words, you have been ever since it started?

The Witness: Well, there was a short period—I signed [45] as a director when the organization was first formed, and after the formation I resigned to give Mr. Randall and the Board a chance to choose somebody else if they wanted to, and they wanted me to go back on, and I did.

Mr. Lewis: The stipulation will show that in November, 1951, he was returned to the board of directors.

The Court: Very well.

Q. (By Mr. Lewis): As a director, do you recall in any of the directors' meetings any discussion as to whether or not the Foundation should make any gifts to charitable organizations? A. Yes.

Q. Can you tell us the substance of those discussions?

A. Well, we discussed the advisability of making contributions to various charities. Mr. Randall wanted to accumulate funds and was perhaps not as much inclined to make contributions as some of the rest of us, but we felt that perhaps some should be made along the line and, as I recall on several occasions, the board's trustees voted to make contributions.

Q. It has been stipulated, Mr. Flanagan, that in the fall of 1952 an amendment to the bylaws of the Foundation were made which required it to either build or inaugurate a boys' home which would

(Testimony of James A. Flanagan.)

house at least 50 boys by December, 1957. Do you recall drawing that amendment? [46]

A. Yes.

Mr. Wyshak: I object, your Honor, on the ground it is immaterial and irrelevant.

The Court: Overruled.

Q. (By Mr. Lewis): Was there an attempt made at that time to amend the articles in a similar fashion? A. Yes, there was.

Q. And what was the result of that attempt?

A. Well, as I remember, we attempted to amend the articles to provide that if we did not have established by a certain date—I believe 1957 or thereabouts—a boys' home caring for at least 50 boys that the board of directors——

The Court: December, 1959?

The Witness: December, 1959—that the board of directors would dissolve the corporation.

The State refused to let us file in that form because of the fact that there could not be a mandatory provision in regard to dissolution, that it had to be a voluntary act of the board of directors, and therefore we did amend the bylaws to make some provision for it.

Q. (By Mr. Lewis): Do you recall what caused you to make that amendment to the bylaws——

Mr. Wyshak: Same objection, your Honor. [47]

The Court: Overruled.

The Witness: A firm was employed in Washington, D. C., to take up this matter of exemption with

(Testimony of James A. Flanagan.)

the Department and that firm advised me that the Department wanted an amendment.

Mr. Wyshak: Objection to this portion of his testimony on the ground that it is hearsay and incompetent.

The Court: Overruled.

The Witness: That firm advised me that the Department wanted us to amend the articles to set up our primary purpose, and since our primary purpose was to establish a boys' home they wanted us to set that forth, and further provide that we would do so, would establish this home by a fixed date.

Q. (By Mr. Lewis): While you were a director of the plaintiff Foundation, how often did you discuss its affairs with Mr. Randall?

A. I would say I discussed the affairs with him on the average of once a week, a good part of the time.

Q. What did those discussions cover?

A. Well, various proposed investments and possibility of locations for a boys' home, purchase of locations and contributions—various things of that kind.

Mr. Lewis: I have no further questions.

The Court: Cross-examine. [48]

(Testimony of James A. Flanagan.)

Cross-Examination

By Mr. Wyshak:

Q. I believe you stated, Mr. Flanagan, that in your conversations with Mr. Randall he indicated to you that he wanted to accumulate funds so that he could build a boys' home, is that correct?

A. That is right.

Q. Did he tell you how he intended to accumulate those funds?

A. He said he intended to make contributions to the Foundation when formed and through investment to secure additional funds which he thought eventually would lead to such an accumulation.

Q. Did he ever give you any indication of what he meant by "eventually"?

A. I think he thought it would take several years, two to four years or thereabouts.

Q. And during that time the only source of funds was to be any contributions he might make and any profits realized from speculating in the stock market?

A. No, I think that we all on the board hoped to make some contributions during the course of the Foundation, and I think that we hoped to secure contributions from other people.

Q. I don't believe you have answered the question, Mr. Flanagan. [49] Would you read it again, Mr. Reporter?

(The question referred to was read by the reporter as follows: "Q. And during that time

(Testimony of James A. Flanagan.)

the only source of funds was to be any contributions he might make and any profits realized from speculating in the stock market?")

The Witness: That was not the only source of funds contemplated.

Q. (By Mr. Wyshak): You at no time did contribute any funds, though, did you?

A. No, not after the Government raised a question. All contributions were set aside.

Q. I believe you stated you became a director in November, 1951?

A. I was a director after having resigned once.

Q. Shortly thereafter the Commissioner of Internal Revenue ruled for the second time that this Foundation was not tax exempt, isn't that correct?

A. Possibly it did. I don't remember the dates.

Q. Approximately how many times would you say you met, the board of directors and Mr. Randall, between the time of your re-election on the board of directors on April 30, 1952?

A. How many times did I meet with Mr. Randall and the [50] board?

Q. Yes.

A. Oh, I would guess 15 times or thereabouts, maybe more.

Q. Out of that 15 times how many discussions took place with regard to making contributions to charity?

A. Well, I would say four or five. I think that there were several occasions, as I recall, that we voted contributions to different charities.

(Testimony of James A. Flanagan.)

Q. Would you say that that four or five times was scattered throughout the 15 different meetings or was it nearer the beginning of that period or the end of the period or the middle of it?

A. I would say it was scattered.

Q. Yet according to the stipulation, no money was contributed at any time between your re-election and the end of the fiscal year, is that correct?

A. That is between November, 1950——

Q. 1951—or is it '50 or '51 that you were re-elected?

A. I think it was '50. I may be wrong.

Mr. Lewis: The stipulation shows, Your Honor, that the Foundation was formed in May of 1950 and Mr. Flanagan was re-elected to the board in November.

The Court: 1951 you said a while ago.

Mr. Lewis: May I check that? [51] November, 1951, is correct, Your Honor.

The Court: Very well.

Mr. Wyshak: Will you read the last question and answer, Mr. Reporter?

(The record referred to was read by the reporter as follows:)

“Q. Yet according to the stipulation, no money was contributed at any time between your re-election and the end of the fiscal year, is that correct?

“A. That is between November, 1950——

“Q. 1951—or is it '50 or '51 that you were re-elected?

(Testimony of James A. Flanagan.)

“A. I think it was '50. I may be wrong.

“Mr. Lewis: The stipulation shows, Your Honor, that the Foundation was formed in May of 1950 and Mr. Flanagan was re-elected to the board in November.”

Mr. Lewis: That is a misstatement of the stipulation.

The Court: Whatever the stipulation shows, it shows, and that is the answer.

The Witness: I would say there was but I don't remember.

The Court: He is asking you what the stipulation shows. It speaks for itself.

Mr. Wyshak: No further questions.

The Court: Step down. [52]

Mr. Lewis: I have one further question.

Redirect Examination

By Mr. Lewis:

Q. You mentioned, Mr. Flanagan, that you had approximately 15 meetings, as I recall. Were those all formal directors' meetings or were some informal meetings, just to clarify the record?

A. I think some were informal meetings but we did have quite a few directors' meetings.

Mr. Lewis: That is all.

Mr. Wyshak: That is all.

The Court: Step down.

(Witness excused.)

The Court: Is that all of the witnesses?

Mr. Lewis: That is all our witnesses.

The Court: Are there any Government witnesses?

Mr. Wyshak: I have Mr. Reed here.

The Court: Does the plaintiff rest?

Mr. Lewis: Yes, Your Honor.

EDWIN L. REED

called as a witness by and on behalf of the defendant, having been first duly sworn, was examined and testified as follows:

The Clerk: State your name in full, please.

The Witness: Edwin L. Reed, R-e-e-d.

The Clerk: And your address? [53]

The Witness: 115 South Los Robles, Pasadena.

(Conference between counsel.)

Mr. Wyshak: Your Honor, perhaps we had better take a recess if you so intended to.

The Court: I have an appointment at 4:00 o'clock.

Mr. Wyshak: This is only going to take five minutes once we get started.

The Court: What are you going to do, stipulate to a lot of records?

Mr. Lewis: The difficulty, Your Honor, is this——

The Court: What is your business? Are you a revenue agent?

The Witness: I am a revenue agent.

The Court: What are you going to prove by him, counsel?

(Testimony of Edwin L. Reed.)

Mr. Wyshak: I am merely asking him to show the number of shares of stock that were purchased in these fiscal years by the corporation, and I am seeking a stipulation that those brokerage statements, which were procured from the plaintiff, are the only brokerage statements for those years for the Foundation.

Mr. Lewis: I will so stipulate.

The thing that is a little bit bothersome to me, Your Honor, is that Mr. McHale, the other gentleman from the United States Attorney's office, worked out our stipulation with the thought that we would save some time. It seems that [54] this is just cumulative.

The Court: What are Schedules E and F? Are they here?

Mr. Lewis: You will find on the stipulation—

The Court: I know, but you talk about E and F. But what is E and what is F?

Mr. Wyshak: Those only show the number of sales by the corporation during those years, Your Honor, and I wanted to show the number of purchases. We could only do that by means of these brokerage statements, since the purchases wouldn't show up unless they were also sold within that period.

Mr. Lewis: Your Honor, we discussed the matter, Mr. McHale and I and we had this problem, that on a brokerage statement it might show that there were 100 shares purchased, another 100 shares purchased, but we went to the brokerage houses

(Testimony of Edwin L. Reed.)

and we could find no record as to whether or not that was in response to one order to purchase 300 shares, and therefore in view of that language as to what this means, Mr. McHale and I decided to stipulate in the manner we have done and we thought that that would give the Court enough information concerning the activities here involved.

The Court: Is not the Government foreclosed from this by virtue of your stipulation?

Mr. Lewis: No, the stipulation does not say it is inclusive, Your Honor, but I have no objection to introducing those in evidence, but with the understanding that though that might record three different purchases it doesn't mean [55] that there were that many.

The Court: What did you want to show by this witness?

Mr. Wyshak: I am not trying to show the number of transactions, I am trying to show the number of shares of stock traded. Mr. Lewis is correct in that regard, that you can't tell whether a certain enumeration meant there were that many or not.

The Court: Does not this Schedule E and F attached to the complaint show the number of shares of stock that were traded?

Mr. Wyshak: No, it merely shows the number that were sold during that period. In other words, E and F show any gain or loss on any sales, but it doesn't show the purchases.

The Court: What is the difference what the purchases were?

(Testimony of Edwin L. Reed.)

Mr. Wyshak: I am trying to show how many shares of stock were purchased and how many were sold in this period to show the volume of trading that took place.

Mr. Lewis: Your Honor, may I suggest this, I have no objection to stipulating that they may be admitted——

Mr. Wyshak: I don't want to introduce them into evidence, I just want to have the agent say that he examined these and added up all the purchases and they come to so much.

The Court: Let them be marked for identification as Defendant's Exhibit C. [56]

(The document referred to was marked Defendant's Exhibit C for Identification.)

The Court: Mr. Reed, have you gone through those statements?

The Witness: I have, Your Honor.

The Court: And it is stipulated that they were secured from the plaintiff?

Mr. Lewis: Yes.

The Court: And have you made a tabulation of the total number of shares purchased?

The Witness: Yes.

The Court: And the dates?

The Witness: Yes, sir.

The Court: And the names of the companies and the amounts paid?

The Witness: Not the amount.

The Court: You have that in written form?

(Testimony of Edwin L. Reed.)

The Witness: I have.

The Court: Show it to counsel.

(Exhibiting document to counsel.)

The Court: Is that all you wanted to prove with this witness?

Mr. Wyshak: And also he has a total of the number of shares on E and F. I thought it might aid Your Honor.

Mr. Lewis: What is your thought, counsel, that you are [57] going to use just the first page or all the pages of this?

Mr. Wyshak: I just want him to testify. I wasn't going to introduce those into evidence.

The Court: If they are mere tabulations to save time, why not let them be marked as Exhibit C-1?

Let me make this suggestion, that it be marked as Exhibit C-1 and that counsel for the plaintiff, Mr. Lewis, will have an opportunity to examine it and if you have any objection to it—this matter is going to be taken under submission anyway—that you submit in the next four or five days your objections.

Mr. Lewis: That is fine if they will give me a copy of it. There were no copies made.

The Court: Let it be marked and you can get it photostated. Mr. Wyshak will provide you with a photostatic copy which you can get from the clerk's office, so that you can examine it because the method and manner of calculation and the figures may or may not be important.

(Testimony of Edwin L. Reed.)

(The document referred to was marked Defendant's Exhibit C-1 for Identification.)

The Court: Now you say you have also added up the total of Schedule E and F?

The Witness: Yes, Your Honor.

The Court: Do they have a sheet of that too?

Mr. Wyshak: No, all he has is merely the total with [58] the number of shares listed thereon. It is just a matter of arithmetic.

The Court: I do not think it is necessary for him to testify to that. You are going to file a brief, are you not?

Mr. Lewis: Yes, Your Honor.

The Court: Then you can use his figures in that brief.

Mr. Lewis: As long as they are going to put in that one page, that is perfectly all right.

The Court: Anything more from this witness?

Mr. Lewis: It will be stipulated that these summaries are correct, subject to my checking them.

The Court: That is right, and if you have any objection to it you can file it in writing in five days. And if you feel it is necessary to clarify it, I will reopen the matter and you may call another witness.

Mr. Wyshak: The foundation is waived, that he is a revenue agent?

Mr. Lewis: Yes.

Mr. Wyshak: And you are willing to stipulate that those are all the brokerage statements for the Randall Foundation for those two fiscal years? That

(Testimony of Edwin L. Reed.)

is as far as we went in the tabulation, and we didn't go beyond that time.

The Court: I take it that counsel will make that stipulation subject to his verification.

Mr. Lewis: That is correct. [59]

The Court: I would not think he would be prepared at this moment seeing a sheaf of papers to say that is it.

Is that all?

Mr. Wyshak: That is all.

The Court: Step down.

(Witness excused.)

Mr. Wyshak: May we withdraw those exhibits to have them copied?

The Court: Exhibit C?

Mr. Wyshak: Exhibit C-1.

The Court: Yes.

Is that all your witnesses?

Mr. Wyshak: That is all, Your Honor.

The Court: Any rebuttal witnesses?

Mr. Lewis: No, Your Honor.

The Court: I take it you both want to brief this question?

Mr. Lewis: Yes, Your Honor.

Mr. Wyshak: We would like to, Your Honor.

The Court: The plaintiff here will have five days to file any supplement or explanation or whatever it is to Exhibit C and Exhibit C-1 and to reopen if necessary.

How long do you want to file a brief?

Mr. Lewis: Fifteen days.

The Court: And to reply? [60]

Mr. Wyshak: I don't want to ask for more than my brother here, but may I have 20?

The Court: 20, 20 and 10, at which time the matter will be submitted.

The Clerk: Neither of these exhibits have been admitted besides Exhibit A.

The Court: Exhibit C will be admitted in evidence. Is there any objection to it?

Mr. Wyshak: I think it will only clutter up the record since we have C-1 in evidence.

The Court: Exhibit C-1 will be received in evidence and Exhibit C will remain marked for identification.

Mr. Lewis: Yes.

(The document referred to, marked Defendant's Exhibit C-1 for Identification, was received in evidence.)

DEFENDANT'S EXHIBIT C-1

FY 4/30/51

Randall Foundation, Inc.
Schedules of Securities Purchased

Month	Number of Shares		Total
	Aiken-Lambert	Harbison & Henderson	
1950			
May			
June	2,150		2,150
July	1,800		1,800
August	5,300		5,300
September	1,500		1,500
October	1,950		1,950
November	1,000	200	1,200
December	5,225	400	5,625

1951			
January	1,450	750	2,200
February	1,160		1,160
March	1,850	300	2,150
April	1,348	525	1,873
	<u>24,733</u>	<u>2,175</u>	<u>26,908</u>
Total shares sold per 1,120 (return)			23,185
Total shares purchased per above			26,908
Total			<u>50,093</u>

FY 4/30/52

Randall Foundation, Inc.
Schedules of Security Purchases

Month	Number of Shares		
	Aiken- Lambert	Harbison & Henderson	Total
1951			
May	1,086	1,350	2,436
June	2,400	3,550	5,950
July	200 ³ / ₄	350	550
August	400	350	750
September	100	200	300
October	500	300	800
November	900	350	1,250
December	2,400	150	2,550
1952			
January	100	1,050	1,150
February	200		200
March			
April			
	<u>8,286</u>	<u>7,650</u>	<u>15,936</u>
Total sales per return			25,996
Total purchases per above			15,936
Total			<u>41,932</u>

[Admitted in evidence Oct. 11, 1954.]

The Court: Very well. Court is adjourned.

(Whereupon, at 3:30 o'clock p.m., Court was adjourned.) [61]

CERTIFICATE

I hereby certify that I am a duly appointed, qualified and acting official Court reporter of the United States District Court for the Southern District of California.

I further certify that the foregoing is a true and correct transcript of the proceedings had in the above-entitled cause on the date or dates specified therein, and that said transcript is a true and correct transcription of my stenographic notes.

Dated at Los Angeles, California, this 21st day of October, A.D. 1954.

/s/ AGNAR WAHLBERG,
Official Reporter.

[Endorsed]: Filed March 19, 1956. [62]

[Title of District Court and Cause.]

CERTIFICATE BY CLERK

I, John A. Childress, Clerk of the United States District Court for the Southern District of California, do hereby certify that the foregoing pages numbered 1 to 124, inclusive, contain the original

Complaint;

Answer;

Stipulation of Facts;

Findings of Fact and Conclusions of Law
and Judgment;

Notice of Appeal;

Stipulation Extending Time for Filing of
Bond for Costs on Appeal;

Corrected Findings of Fact, Conclusions of
Law and Judgment Nunc Pro Tunc;

Designation of Contents of Record on Ap-
peal;

Defendant's Additional Designation of Con-
tents of Record on Appeal;

which, together with a full, true and correct copy of the Minutes of the Court had on April 6, 1955; 1 volume of reporter's transcript of proceedings of October 11, 1954; and defendant's exhibits A and C-1, all in the above-entitled cause, constitute the transcript of record on appeal to the United States Court of Appeals for the Ninth Circuit, in the above-entitled case.

I further certify that my fees for preparing the foregoing record amount to \$2.00, which sum has been paid by appellant.

Witness my hand and the seal of the said Dis-
trict Court this 22nd day of March, 1956.

[Seal]

JOHN A. CHILDRESS,
Clerk,

By /s/ CHARLES E. JONES,
Deputy.

[Endorsed]: No. 15076. United States Court of Appeals for the Ninth Circuit. Randall Foundation, Inc., Appellant, vs. Robert A. Riddell, Director of Internal Revenue, District of Los Angeles, Appellee. Transcript of Record. Appeal from the United States District Court for the Southern District of California, Central Division.

Filed March 23, 1956.

/s/ PAUL P. O'BRIEN,

Clerk of the United States Court of Appeals for
the Ninth Circuit.

In the United States Court of Appeals for the
Ninth Circuit

No. 15076

RANDALL FOUNDATION, INC.,

Plaintiff-Appellant,

vs.

ROBERT A. RIDDELL, Director of Internal Revenue,
District of Los Angeles,

Defendant-Appellee.

APPELLANT'S STATEMENT OF POINTS
UPON WHICH IT INTENDS TO RELY

Point I.

For both of the years here in question plaintiff was organized and operated exclusively for charitable purposes, and, therefore, is exempt from income tax for said years under Section 101(6) of the Internal Revenue Code of 1939.

A. For both of said years plaintiff's charter itself dedicated all assets and income of plaintiff perpetually to the charitable purposes stated in its charter.

B. Plaintiff's activity during the said years qualified it for exemption under said Section.

(1) The receipt of interest by Paul M. Randall from plaintiff does not affect its exemption.

(2) Plaintiff's activity in the market does not affect its exemption. It was not selling or dealing

with customers and therefore, did not compete with anyone.

(3) For neither of said years was plaintiff a "feeder" organization within the meaning of Section 301(b) of the Revenue Act of 1950.

C. The conclusion of the trial judge that plaintiff was not organized and operated exclusively for charitable purposes is contrary to the law as applied to the facts as established by the record in this case and found by the trial judge in his corrected Conclusions of Fact, other than those in Paragraphs XI, XII and XIII. The Conclusions of Fact in said latter three paragraphs are Conclusions of Law and are not properly included in the Findings of Fact.

Point II.

For its fiscal year ended April 20, 1951, plaintiff is specifically exempt from income tax under Section 302(a) of the Revenue Act of 1950.

Dated: 5/26/56.

Respectfully submitted,

GIBSON, DUNN &
CRUTCHER,

By BERT A. LEWIS,
Attorneys for
Plaintiff-Appellant.

[Endorsed]: Filed March 28, 1956.

